

**STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES**

In the Matter of the Board's Investigation)
Regarding the Reclassification of Incumbent)
Local Exchange Carrier (ILEC) Services as)
Competitive – Phase II)

Docket No. TX11090570

**TESTIMONY OF SUSAN M. BALDWIN AND SARAH M. BOSLEY
ON BEHALF OF THE
NEW JERSEY DIVISION OF RATE COUNSEL**

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Confidential Exhibit SMB-C-2 Verizon NJ's confidential responses to RC-VNJ-5 (identifies the wire center that serves each municipality within Verizon NJ's service territory)

Confidential Exhibit SMB-C-3 Verizon NJ's confidential responses to RC-VNJ-6 (quantity of Lifeline customers by wire center in each year, 2009 through 2011)

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Confidential Exhibit SMB-C-5	Verizon NJ's confidential responses to RC-VNJ-48, parts a through f (Form 477s) (<i>incorporated by reference</i>)
Confidential Exhibit SMB-C-6	CenturyLink's confidential responses to RC-CTL-47 (Form 477s) (<i>incorporated by reference</i>)
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I. INTRODUCTION

Qualifications

Q: Please state your names, positions, and business addresses.

A: My name is Susan M. Baldwin. I am a consultant, and my business address is 17 Arlington Street, Newburyport, Massachusetts 01950. My name is Sarah M. Bosley. I am a consultant, and my business address is 107 Oxpens Road, Cary, North Carolina 27513. We both specialize in telecommunications economics, regulation, and public policy.

Q: Please summarize your educational background and professional experience.

A: We have prepared Statements of Qualifications, which are included as Attachments A and B.

Q: Ms. Baldwin, have you previously testified before the New Jersey Board of Public Utilities (“Board”)?

A: Yes. In 2009, I co-sponsored testimony with Ms. Bosley in the Board’s investigation of local exchange carriers’ intrastate access rates (Docket No. TX08090830). In 2007 and 2008, I testified in Docket No. 07110873 on behalf of the New Jersey Division of Rate Counsel (“Rate Counsel”) in the Board’s investigation of the reclassification of incumbent local exchange carrier (“ILEC”) services as competitive. I also testified in Docket No. TX0612084 on behalf of Rate Counsel regarding the Board’s investigation of the reclassification as competitive of services offered by competitive local exchange carriers (“CLEC”).

In 2006, I filed testimony in Docket No. TT97120889, on behalf of Rate Counsel, and in that

1 testimony, I analyzed the directory assistance (“DA”) service of Verizon New Jersey
2 (“Verizon NJ”).

3
4 In 2005, I filed testimony in Docket No. TM05080739, on behalf of Rate Counsel, in which I
5 analyzed the petition of United Telephone Company of New Jersey and LTD Holding
6 Company for approval of a change in ownership and control from Sprint Nextel Corporation
7 (“Sprint”) to LTD. Also in 2005, on behalf of Rate Counsel, I filed testimony in Docket No.
8 TM05030189, opposing the proposed merger between Verizon Communications Inc.
9 (“Verizon”) and MCI, Inc. (“MCI”), and I filed testimony in Docket No. TM05020168
10 opposing the proposed merger between SBC Communications, Inc. (“SBC”) and AT&T
11 Corporation (“AT&T”).

12
13 In 2005, I filed testimony in Docket No. TO01020095, on behalf of Rate Counsel, in which I
14 analyzed Verizon NJ’s request to classify business local exchange service offered to
15 customers with two to four lines as competitive. In 2004 and 2005, I filed testimony, on
16 behalf of Rate Counsel, in Docket No. TT04060442, in which I reviewed Verizon NJ’s
17 petition for a rate restructure. In 2004, on behalf of Rate Counsel, I submitted testimony in
18 Docket No. TO03090705, rebutting Verizon NJ’s assertion of non-impairment for mass
19 market switching, high capacity loops, and transport in certain geographic areas in New
20 Jersey, and I submitted testimony in Docket No. TO00060356, analyzing Verizon NJ’s
21 proposed use of financial lives in computing depreciation costs in its recurring and

1 nonrecurring total element long run incremental cost (“TELRIC”) studies. Also, in 1992, I
2 testified on behalf of the New Jersey Cable Television Association in Docket No.
3 T092030358, regarding the Application of the New Jersey Bell Telephone Company for
4 Approval of its Plan for an Alternative Form of Regulation.

5 **Q: Ms. Bosley, have you testified previously before the Board?**

6 **A:** Yes. In 2009, I co-sponsored testimony with Ms. Baldwin in the Board’s investigation of
7 local exchange carriers’ intrastate access rates (Docket No. TX08090830).

8
9 Also, I participated and assisted with the preparation of testimony in numerous Board
10 proceedings, including the Board’s investigation of the reclassification of ILEC services as
11 competitive (Docket No. 07110873) and the Board’s investigation of the reclassification, as
12 competitive, of services offered by CLECs (Docket No. TX0612084).

13
14 In 2006, I participated in Docket No. TT97120889, on behalf of Rate Counsel, regarding the
15 classification of DA service provided by Verizon NJ. In 2005, I participated in Docket No.
16 TM05080739, on behalf of Rate Counsel, in which the Board reviewed the petition of United
17 Telephone Company of New Jersey and LTD Holding Company for approval of a change in
18 ownership and control from Sprint Nextel Corporation to LTD.

19
20 On behalf of Rate Counsel, I assisted in the preparation of testimony in 2005 in Docket No.
21 TM05030189, opposing the proposed merger between Verizon and MCI, and in Docket No.

1 TM05020168, opposing the proposed merger between SBC and AT&T. Also in 2005, I
2 participated, on behalf of Rate Counsel, in Docket No. TO01020095, in which I analyzed
3 Verizon NJ's request to classify business local exchange service offered to customers with
4 two to four lines as competitive. In 2004 and 2005, I participated in Docket No.
5 TT04060442, a review of Verizon NJ's petition for a rate restructure.

6
7 In 2000 and 2001, I participated in Docket No. TO00060356. I assisted in the preparation of
8 discovery, testimony, cross-examination of witnesses, and briefs and attended hearings on
9 behalf of Rate Counsel regarding Verizon's rates and terms for the provision of unbundled
10 network elements.

11 **Assignment**

12 **Q: On whose behalf is this testimony being submitted?**

13 **A:** This testimony is being submitted on behalf of Rate Counsel.

14 **Q: What is the purpose of your testimony at this time?**

15 **A:** Rate Counsel asked us to file testimony regarding the competitiveness of four rate-regulated
16 services (residential basic exchange service, single-line business basic exchange service,
17 nonrecurring charges for installation of residential services, and residential directory
18 assistance ("DA") service, as well as the competitiveness of discretionary services and
19 multiline business basic exchange services (including two through 23 business exchange
20 lines offered to a customer).¹

21 **Q: How is your testimony organized?**

1 A: This section introduces our testimony. Section II provides procedural and regulatory context
2 for our testimony. Section III provides an overview of the operations of Verizon NJ and
3 CenturyLink in New Jersey. Section IV describes the structure of local exchange markets
4 and analyzes data regarding the level of competition that presently exists. Section V
5 addresses the level of competition for discretionary services, and Section VI discusses
6 residential directory assistance service.

7 Q: **Please describe the areas of responsibility for the witnesses for this testimony.**

8 A: Each member of the panel has reviewed and supports the testimony in its entirety.

9 Q: **What is your understanding of the scope of this proceeding?**

10 A: It is our understanding that, as set forth by the Board, the scope of this proceeding
11 encompasses the competitiveness of four rate-regulated services (residential basic exchange
12 service, single-line business basic exchange service, nonrecurring charges for installation of
13 residential services, and residential DA, as well as of any other mass market services
14 identified by Rate Counsel.² Rate Counsel notified the Board that it seeks reclassification of
15 discretionary services (offered to residence and business customers) as rate-regulated, as
16 well as business local exchange service offered to all customers, regardless of the specific

¹ / See letter from Rate Counsel, dated December 7, 2011 and attachments thereto.

² / *In the Matter of the Board Investigation Regarding the Reclassification of Incumbent Local Exchange Carrier (ILEC) Services as Competitive – Phase II*, New Jersey Board of Public Utilities Docket No. TX11090570, Order, October 13, 2011 (“October 2011 Order”), at 2, citing *In the Matter of the Board Investigation Regarding the Classification of Incumbent Local Exchange Carrier (ILEC) Services as Competitive*, Docket No. TX07110873, *In the Matter of the Application of United Telephone Company of New Jersey Inc. d/b/a Embarq for Approval of a Plan for Alternative Regulation*, Docket No. TO08060451, August 20, 2008 (“ILEC Proceeding Order”), at 43.

1 quantity of lines subscribed to by business customers.³

2 **Summary**

3 **Q: Please summarize your testimony.**

4 **A:** Based on our analysis of relevant telecommunications markets in New Jersey, we conclude
5 the following:

6 *Despite industry changes, there continues to be a lack of competitive alternatives for basic*
7 *local exchange and related services:*

- 8 • Based on our detailed analysis of data and information on demand, rates, terms,
9 conditions and supply of telecommunications services in relevant geographic and
10 product markets, and applying the relevant statutory guidelines as well as well-
11 accepted economic criteria, we conclude that:

- 12 ○ There is no effective competition for basic, standalone residential local
13 exchange service.⁴

- 14 ○ There is no effective competition for basic, standalone business local
15 exchange service, whether offered to customers seeking one or multiple local
16 exchange lines.

- 17 ○ There is no effective competition for discretionary features that consumers
18 purchase on a standalone basis, and there is only emerging competition for

³ / See letter from Rate Counsel, dated December 7, 2011 and attachments thereto.

⁴ / “Standalone” service consists solely of basic local exchange service, and does not include intrastate or interstate toll (i.e., long distance) service. In the context of cable-based telephony offerings, some use the term “standalone” to refer to the option to purchase voice without Internet access and without video services (that is, solely the voice component of the “triple play”)—in that instance, however, the voice offering typically includes intrastate and interstate toll service and so cannot be considered a standalone basic local service. Instead, it is a voice-only offering.

1 those who purchase discretionary features through a “package.”

2 ○ There is no effective competition for installation charges for residence local
3 exchange service, whether purchased on a standalone basis or through a
4 package.

5 ○ There is no effective competition for installation charges for basic, standalone
6 business service.

7 ○ There is no effective competition for directory assistance.

8 ● Based on our analysis of revenue, demand, and pricing data, we conclude that the
9 competition that is emerging in New Jersey’s local markets consists of a duopoly
10 between the incumbent local exchange companies (Verizon NJ, CenturyLink, and
11 Warwick) and the incumbent cable companies (including, for example, Comcast,
12 Cablevision, and Service Electric). A duopoly does not provide effective
13 competition, and, therefore, fails to protect consumers from price increases and
14 service quality deterioration.

15 ● Cable companies have made relatively greater inroads in residential markets than in
16 business markets. However, *even where consumers have a cable-based*
17 *telecommunications alternative*, the cable-based voice offering is typically priced at
18 more than twice the incumbent telecommunications standalone basic local service
19 offerings. These cable-based offerings do not represent reasonably comparable
20 economic substitutes for ILECs’ standalone voice services.

21 ○ A significant percentage of residential customers continue to rely on
22 standalone basic service and therefore do not have economic alternatives to
23 the ILECs’ basic local exchange service.

1 ○ Furthermore, even those residential customers who choose packages or
2 bundles instead of standalone basic local exchange service do not confront
3 effective competition because relevant markets are controlled by the duopoly
4 that consists of incumbent telecommunications and cable companies.

5 • We also observe the following:

6 ○ Although the quality of service provided (e.g., timeliness of the installation
7 and repair of service) and the way that a company chooses to allocate and
8 assign resources (e.g., the deployment priorities for service technicians
9 between DSL and FiOS versus basic local exchange service) are barometers of
10 the level of competition in relevant markets, Verizon NJ and CenturyLink
11 refused to provide the requested information that would enable us to analyze
12 these aspects of the competitiveness of New Jersey markets.

13 *The competitive classification of ILECs' basic telecommunications services would harm*
14 *consumers:*

15 • We also conclude that if, contrary to our recommendation, the Board were to
16 designate these services as competitive, because of the lack of affordable economic
17 substitutes:

- 18 ○ Rates likely would increase;
- 19 ○ Service quality likely would decline;
- 20 ○ Companies likely would seek to migrate customers from standalone products to
21 packages;
- 22 ○ Consumers would be harmed, including, among others, those with low or limited

1 incomes, the elderly, and those in rural areas with the fewest alternatives and the
2 least reliable wireless coverage. The harm could take the form of rate increases
3 and service quality decline (e.g., slow installation and repair of basic dial tone
4 service).

- 5 • Based on our analysis of data, we also conclude that:
 - 6 ○ The level of competition varies among geographic markets, but even in the most
7 urban markets, competition consists largely of a duopoly.
 - 8 ○ Although some customers “cut the cord,” that is, they discontinue wireline
9 service and rely exclusively on wireless service, the vast majority of customers
10 unambiguously continue to prefer relying on wireline service.
 - 11 ○ Where non-cable companies have made inroads in residential markets, they have
12 done so by relying on the ILECs’ wholesale services (residential resale, and
13 residential “Wholesale Advantage”), both of which mean they depend on the
14 rates, terms, and conditions that ILECs control.
 - 15 ○ The continuing distortion of interstate special access rates thwarts rivals’ entry
16 into business markets.⁵

17 *Recommendations*

- 18 • The Board should continue to classify the following services as non-competitive:
 - 19 ○ Basic residence local exchange service (monthly and installation charges);

⁵ / *AT&T Corp. Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services*, RM-10593, Petition for Rulemaking, filed Oct. 15, 2002. *See, also, In the Matter of Special Access Rates for Price Cap Local Exchange Carriers; AT&T Corp. Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services*, FCC WC Docket No. 05-25; RM-10593, *Order and Notice of Proposed Rulemaking*, released January 31, 2005.

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- 1 ○ Basic business local exchange service, regardless of the quantity of lines to
- 2 which a customer subscribes (monthly and installation charges);
- 3 ○ Discretionary services (offered to residence and business customers); and
- 4 ○ Residence directory assistance service.
- 5

1 the proceeding.⁹

2 **Q. What was the outcome of that proceeding?**

3 A. After extensive testimony submitted by the parties (including Ms. Baldwin's testimony on
4 behalf of Rate Counsel) and hearings, Board Staff, Rate Counsel and Verizon NJ entered
5 into a stipulated settlement, as did Board Staff, Rate Counsel and CenturyLink in May and
6 June 2008, respectively. The Board approved those stipulations in an Order dated August
7 20, 2008.¹⁰ The stipulations retained rate regulation for residential basic exchange service,
8 single-line business basic exchange service, installation of residential exchange service, and
9 residential DA service (with rate adjustments in each of the three years).¹¹ There were also a
10 number of additional services related to specific public policy goals for which the
11 stipulations preserved rate regulation.¹²

12
13 Although the Board found sufficient evidence of competition to support acceptance of the
14 Stipulations, it expressly retained "the authority, pursuant to N.J.S.A. 48:2-21.19(d) to
15 'reclassify any telecommunications service that it has previously found to be competitive if,

⁹ / *In the Matter of the Board Investigation Regarding the Reclassification of Incumbent Local Exchange Carrier (ILEC) Services as Competitive*, New Jersey Board of Public Utilities Docket No. TX07110873, *Order*, November 28, 2007.

¹⁰ / *ILEC Proceeding Order*.

¹¹ / *Id.*, at Stipulations, paras. 21(b) and 22. See, also, *October 2011 Order*, at 1-2.

¹² / These included: Lifeline; LinkUp, Directory Assistance and Directory Assistance Call Completion to residential customers with a visual or physical inability to use a directory or directory source; Non-list Service to those residential customers who provide a Protective Order; Non-Pub Service to those residential customers who provide a Protective Order; Residential Call Trace, per call; Residential Per Call Blocking; Residential Per Line Blocking; Residential 700/900 Blocking; and Residential Toll Block/Operator Screening; Residential Billed Number Screening; IntraLATA MTS Service to hearing impaired residence customers; and Intra-Municipal Calling. *ILEC Proceeding*

1 after notice and hearing, it determines that sufficient competition is no longer present upon
2 application of the criteria set forth in subsection b. of [N.J.S.A. 48:2-21.19].”¹³ The
3 settlement among the parties also included an agreement that the Board would evaluate the
4 status of competition in three years’ time.

5 **Q: So, those three years having elapsed, what is before the Board in the current**
6 **proceeding?**

7 A: On October 13, 2011, the Board issued an order regarding the re-evaluation of the
8 competitiveness of four rate-regulated services (residential basic exchange service, single-
9 line business basic exchange service, nonrecurring charges for installation of residential
10 services, and residential directory assistance DA services,¹⁴ as well as of any other mass
11 market services identified by Rate Counsel.¹⁵ Rate Counsel identified other mass market
12 services in its submission to the Board on December 7, 2011, including discretionary
13 services and all business local exchange service (i.e., including more than one line per
14 customer).

15 **Q: What standards apply to the Board’s review?**

16 A: The New Jersey Telecommunications Act of 1992 (“1992 New Jersey Act”) authorizes the
17 Board to “determine, after notice and hearing, whether a telecommunications service is a
18 competitive service.” The legislation requires the Board to develop standards of competitive

Order, at 41-42.

¹³ / *ILEC Proceeding Order*, at 51.

¹⁴ / *October 2011 Order*.

¹⁵ / *October Order*, at 2, citing *ILEC Proceeding Order*, at 43.

1 service that, “at a minimum,” include evidence with respect to:

- 2 • Ease of market entry;
- 3 • Presence of other competitors; and
- 4 • Availability of like or substitute services in the relevant geographic area.

5 In addition, the Board has the authority and responsibility to establish reporting requirements
6 to monitor the “competitiveness” of a telecommunications service. The Board retains the
7 authority to reclassify a service previously deemed competitive if, after notice and hearing, it
8 determines that competitive conditions have changed and that “sufficient” competition is no
9 longer present.

10 **Q. Is there any other statutory guidance that the Board should be considering?**

11 **A:** Yes. In N.J.S.A. 48:2.21.16 (a)(1)-(5), the Legislature declared that the policy of the state is
12 to:

- 13 (1) Maintain universal telecommunications services at affordable rates.
- 14
- 15 (2) Ensure that customers pay only reasonable charges for local exchange
16 telecommunications services, which is available on a non-discriminatory basis.
- 17
- 18 (3) Ensure rates for non-competitive telecommunications services do not
19 subsidize the competitive ventures of providers of telecommunications services.
- 20
- 21 (4) Provide diversity in the supply of telecommunications services and products
22 in telecommunications markets throughout the state.
- 23
- 24 (5) Permit the Board the authority to approve alternative forms of regulation in
25 order to address changes in technology and the structure of the telecommunications industry;
26 to modify the regulation of competitive services; and to promote economic development.
- 27

28 **Q: Is there any other guidance from New Jersey law regarding the Board’s approach to**

1 **assessing competition?**

2 A. Yes. The law that set up the criteria for alternative regulation, N.J.S.A. 48:2-21.18(a),
3 requires the Board to find the following before approving any plan:

4 1) that it will ensure the affordability of protected telephone services; 2) that
5 it will produce just and reasonable rates; 3) that it will not unduly or
6 unreasonable prejudice or disadvantage a customer class or providers of
7 competitive services; 4) that it will reduce regulatory delay and costs; 5) that
8 it is in the public interest; 6) that it will enhance economic development in
9 the State while maintaining affordable rate; 7) that it contains a
10 comprehensive program of service quality standards with procedures for
11 Board monitoring and review; and that it specifically identifies the benefits to
12 be derived from the PAR.
13

14 Although the present review is not for the purpose of authorizing a new alternative
15 regulation plan, the fact that it has the potential to reshape the regulatory framework makes
16 these criteria relevant.

17

1 services).¹⁸ Although carriers may bemoan their “legacy” obligations,¹⁹ by emphasizing the
2 purported cost of such obligations without acknowledging the substantial revenues, century-
3 long customer relationships, and unparalleled brand recognition (which also uniquely benefit
4 carriers’ broadband and wireless affiliates), the carriers depict a distorted view of the overall
5 cost and benefit of being a “legacy” carrier.

6 **Verizon NJ**

7 **Q: Please describe Verizon NJ’s parent and affiliate companies.**

8 **A:** Verizon NJ’s parent, Verizon Corporation, is a “Dow 30 company with \$111 billion in 2011
9 revenues [that] employs a diverse workforce of nearly 194,000.”²⁰ The entity that is now
10 Verizon NJ began as New Jersey Bell, a wholly owned subsidiary of AT&T, prior to the

¹⁸ / Verizon NJ’s confidential response to RC-VNJ-48, which we incorporated as Confidential Exhibit SMB-5, by reference (because the response is voluminous) includes quantities of broadband lines provided by Verizon NJ and shows that Verizon NJ serves<<<BEGIN CONFIDENTIAL ██████████ END CONFIDENTIAL>>> DSLs and <<<BEGIN CONFIDENTIAL ██████████ END CONFIDENTIAL>>> FiOS lines, which yield substantial revenues for the company.

Verizon NJ offers stand-DSL service at rates ranging from \$24.99 per month to \$39.99 per month, depending on maximum throughput. <http://www22.verizon.com/home/highspeedinternet/#plans>, accessed February 21, 2012. Note that for some addresses in Verizon’s territory, a search for DSL availability yields this message: “High Speed Internet isn’t available. The good news: you can get FiOS!” Rates for Verizon’s FiOS Internet access service start at \$54.99 per month for the lowest speed tier, and increase to \$144.95 per month for the highest speed tier. <http://www22.verizon.com/home/fiosinternet/#plans>, accessed February 21, 2012. As of June 30, 2011, CenturyLink provided <<<BEGIN CONFIDENTIAL ██████████ END CONFIDENTIAL>>> DSL lines in New Jersey. Form 477s provided in confidential response to RC-CTL-47, which we incorporate by reference as Confidential Exhibit SMB-C-6. Centurylink offers DSL service at rates of \$19.95 (when bundled with qualifying packages) and \$29.95 per month as a standalone service. <http://www.centurylink.com/home/internet/> and <http://www.centurylink.com/home/internetonly/>, accessed February 21, 2012.

¹⁹ / *In the Matter of Connect America Fund*, WC Docket No. 10-90; *A National Broadband Plan for Our Future*, GN Docket No. 09-51; *Establishing Just and Reasonable Rates for Local Exchange Carriers*, WC Docket No. 07-135; *High-Cost Universal Service Support*, WC Docket No. 05-337; *Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92; *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45; *Lifeline and Link-Up*, WC Docket No. 03-109; *Universal Service Reform – Mobility Fund*, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, released November 18, 2011. See, e.g., comments of Verizon, at 2-18; and CenturyLink, at 9-10.

²⁰ / Verizon website “investor overview,” accessed 2/21/2012 at <http://www22.verizon.com/investor/overview.htm>.

1 court-ordered divestiture in 1984. At that point, the operating company became part of Bell
2 Atlantic, one of the original seven regional operating companies (covering the mid-Atlantic
3 region). Bell Atlantic subsequently merged with another regional operating company,
4 NYNEX, then acquired legacy GTE, and, finally, spun off northern New England operations
5 to FairPoint and former GTE property to Frontier. Verizon Wireless is the nation's largest
6 wireless company.²¹ The significance of these major acquisitions and spin-offs by Verizon
7 is that New Jersey is just one of a diverse and ever-changing portfolio of corporate priorities
8 of its parent corporation. As the company has grown in scale and scope from its New Jersey
9 Bell origins, it is likely that New Jersey landline customers have diminished in importance to
10 Verizon's overall operations and focus. Absent the Board's oversight and monitoring, the
11 state's most vulnerable consumers, and indeed all consumers of non-competitive services,
12 are in jeopardy of rate hikes and service quality deterioration.

13 **Q: Please describe generally Verizon NJ's consumer base and territory.**

14 **A: There are <<<BEGIN CONFIDENTIAL [REDACTED] END CONFIDENTIAL>>>**
15 **households in Verizon NJ's serving territory.²² Verizon NJ serves <<<BEGIN**
16 **CONFIDENTIAL [REDACTED] END CONFIDENTIAL>>> residential lines and**

²¹ / As of the fourth quarter of 2011, Verizon Wireless had 108.7 million customers and quarterly revenues of \$18.3 billion. Verizon Investor Quarterly – Fourth Quarter 2011, January 24, 2012, at 11-12. In the same period, AT&T served 103.2 million wireless customers, and generated wireless revenues of \$16.7 billion for the quarter. AT&T Investor Briefing – 4th Quarter 2011, January 26, 2012, at 4-5. The next largest wireless operator, Sprint Nextel, had only 55 million customers and \$6.9 billion in quarterly revenues. Sprint Nextel news release “Sprint Nextel Reports Fourth Quarter And Full Year 2011 Results,” February 8, 2012, at 5-6.

²² / Verizon NJ confidential response to RC-VNJ-10. Confidential Exhibit SMB-C-4 reproduces this response, which shows the quantities of households within each of Verizon NJ's wire center boundaries.

1 <<<BEGIN CONFIDENTIAL [REDACTED] END CONFIDENTIAL>>> business lines²³ in
2 <<<BEGIN CONFIDENTIAL [REDACTED] END CONFIDENTIAL>>> wire centers²⁴
3 throughout New Jersey.²⁵ Verizon NJ serves <<<BEGIN CONFIDENTIAL [REDACTED] END
4 CONFIDENTIAL>>> Lifeline customers.²⁶

5 **Q: How many residential lines are associated with Verizon NJ's basic exchange service**
6 **that is offered on a standalone²⁷ basis and how many are associated with basic**
7 **exchange service that is offered as part of a package or bundle?**

8 **A: Statewide, Verizon NJ serves <<<BEGIN CONFIDENTIAL [REDACTED] END**
9 **CONFIDENTIAL>>> residential basic exchange lines on a standalone basis,²⁸ which, when**
10 **compared with the total number of residential lines served by Verizon NJ, shows that**
11 **<<<BEGIN CONFIDENTIAL [REDACTED] END CONFIDENTIAL>>>**

²³/ These data correspond with December 2011. Verizon NJ confidential response to RC-VNJ-117. In September 2009, Verizon NJ served <<<BEGIN CONFIDENTIAL [REDACTED] END CONFIDENTIAL>>> residence lines and <<<BEGIN CONFIDENTIAL [REDACTED] END CONFIDENTIAL>>> business lines. *Id.* See also Verizon NJ confidential response to RC-VNJ-2, which concerns quantities of *customers*, as opposed to lines. This response shows that in September 2011, Verizon NJ served <<<BEGIN CONFIDENTIAL [REDACTED] END CONFIDENTIAL>>> residential *customers* while Verizon NJ confidential response to RC-VNJ-117 inexplicably shows only <<<BEGIN CONFIDENTIAL [REDACTED] END CONFIDENTIAL>>> residential *lines* for the same time period.

²⁴/ Verizon confidential response to RC-VNJ-4.

²⁵/ It is our understanding, however, that these line counts do not include lines served by MCI, which Verizon NJ owns, and, therefore, underestimate Verizon NJ's total retail lines.

²⁶/ Verizon NJ confidential response to RC-VNJ-6.

²⁷/ "Standalone" service consists solely of basic local exchange service, and does not include intrastate or interstate toll (i.e., long distance) service. In the context of cable-based telephony offerings, "standalone" sometimes refers to the option to purchase voice without Internet access and without video services – in that instance, however, the voice offering typically includes intrastate and interstate toll service, and so is not truly a "standalone" basic local service offering.

²⁸/ Verizon NJ confidential response to RC-VNJ-7a, reproduced as Confidential Exhibit SMB-C-7. This response also provides lines disaggregated by wire center.

1 percentage of households in New Jersey continue to rely on Verizon NJ's basic local
2 exchange service.²⁹ Through subtraction, we assume that the other <<<BEGIN
3 CONFIDENTIAL ██████ END CONFIDENTIAL>>> households subscribe to local
4 exchange service through bundles or packages, although Verizon NJ also indicates that, as of
5 September 2011, <<<BEGIN CONFIDENTIAL ██████ END CONFIDENTIAL>>>
6 households subscribe to one of Verizon NJ's packages.³⁰ We do not have a ready
7 explanation for this apparent discrepancy in data.

8 **Q: Please define the term "bundle" and "package"?**

9 **A:** What constitutes a "bundle" vs. a "package" is not necessarily straightforward; companies
10 have their own idiosyncratic ways of defining these terms. In response to RC-VNJ-115
11 asking for clarification on definitional issues, Verizon NJ states:

12 Verizon used the term "bundled services" in response to request RC-VNJ-
13 1 to refer to a mix of two or more telephone, data and/or video
14 services offered together under one rate. Examples of bundles
15 include:

- 16 • Double Plays: e.g., FiOS Internet and FiOS TV; or Verizon
17 Freedom package and High Speed Internet
- 18 • Triple Plays: e.g., FiOS TV, FiOS Internet and FiOS Digital
19 Voice; or Verizon Freedom Package, High Speed Internet and
20 DirectTV

21
22 Basic local exchange service plus vertical services (e.g., call waiting or caller
23 ID) and/or toll do not constitute bundles. All Verizon retail services
24 except for Residential Basic Local Exchange, Single Line Basic
25 Exchange Business, Residential Installation Non-Recurring Charges
26 and Residential Directory Assistance have been deemed competitive

²⁹ / See also Verizon NJ confidential response to RC-VNJ-15, which shows that, as of September 2011, <<<BEGIN
CONFIDENTIAL ██████ END CONFIDENTIAL>>> of households subscribe to basic service.

³⁰ / Verizon NJ confidential response to RC-VNJ-14, reproduced as Confidential Exhibit SMB-C-8.

1 by the Board. Furthermore, most bundles include services which are
2 not under the Board's jurisdiction. Verizon is currently developing its
3 testimony due on February 24, 2012. To the extent that it uses the
4 terms "bundled service", "hybrid bundled service", "standalone
5 service", or "unbundled service", definitions will provided within the
6 testimony."
7

8 Verizon NJ's response, however, does not address the term "package." In our testimony, we
9 use the term "package" to refer to ILEC offerings where customers are not purchasing
10 individual features and services on an à la carte basis.

11 **Q: Please describe generally the quantities of Verizon NJ's business lines and customers.**

12 **A: As of September 2011, Verizon NJ serves <<<BEGIN CONFIDENTIAL [REDACTED] END**
13 **CONFIDENTIAL>>> single business lines,³¹ and provides basic local exchange service to**
14 **a total of <<<BEGIN CONFIDENTIAL [REDACTED] END CONFIDENTIAL>>> business**
15 **customers,³² which implies that <<<BEGIN CONFIDENTIAL [REDACTED] END**
16 **CONFIDENTIAL>>> business customers order more than a single line. Furthermore, as**
17 **Table C-1 below shows, based on Verizon NJ's responses to data requests, the average**
18 **number of lines ordered by business customers that order more than one line (i.e., excluding**
19 **those customers who only order a single line) is <<<BEGIN CONFIDENTIAL [REDACTED] END**
20 **CONFIDENTIAL>>>. Table C-1 also shows that, relative to the entirety of business**
21 **customers, the average demand is <<<BEGIN CONFIDENTIAL [REDACTED] END**
22 **CONFIDENTIAL>>> lines per customer.**
23

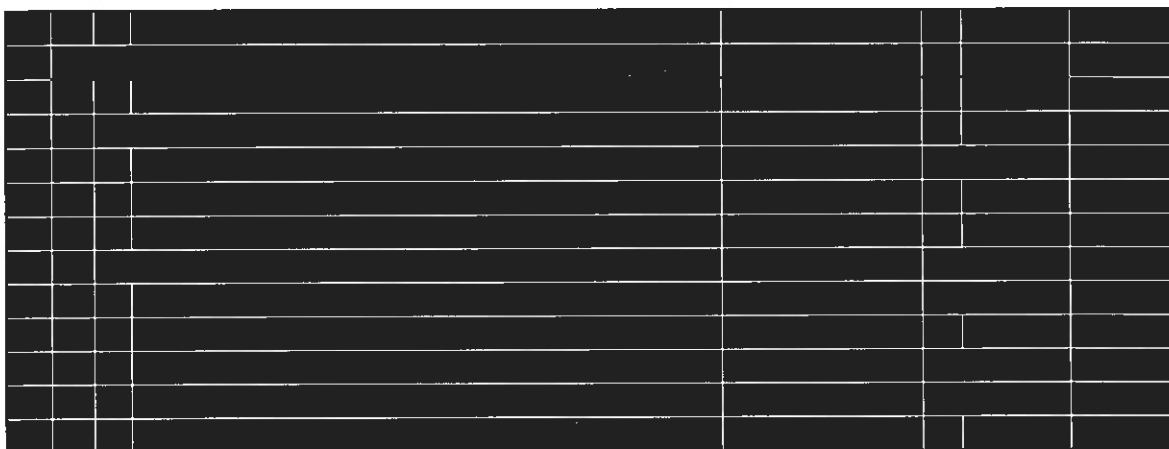
³¹/ Verizon NJ confidential response to RC-VNJ-6e, reproduced as Confidential Exhibit SMB-C-9.

³²/ Verizon NJ confidential response to RC-VNJ-2, reproduced as Confidential Exhibit SMB-C-10.

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Table C-1
Verizon NJ Business Customers

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END CONFIDENTIAL>>>.

6 **Q: Did Rate Counsel seek information about the distribution of demand among business**
7 **customers, that is, for example, the quantity of customers that subscribe to two**
8 **business lines, the quantity of business customers that subscribe to three business lines,**
9 **etc.?**

10 **A: Yes. However, Verizon NJ did not provide the requested information.³³ Contrary to**
11 **Verizon NJ's position, comprehensive data regarding business lines (which is uniquely in the**
12 **possession of Verizon NJ) is clearly relevant to this proceeding. Therefore, in our view, the**
13 **Board should direct Verizon NJ to provide the information that Rate Counsel requested.**

14 **Q: Did you examine data regarding discretionary services and directory assistance for**
15 **Verizon NJ?**

1 A: Yes. We discuss our analysis in Sections V and VI, below.

2 **Q: Did you analyze data regarding competitors' presence in Verizon NJ's serving**
3 **territory?**

4 A: Yes. We summarize our analysis of these data in Section IV below.

5 **Q: Over what time period did you analyze Verizon NJ consumer demand and competitive**
6 **data?**

7 A: Rate Counsel's discovery to Verizon NJ typically sought five years' of demand data, which,
8 if provided, would have enabled us to analyze demand trends. However, in response to
9 discovery, Verizon NJ, without explanation, typically limited its responses either to a two-
10 year time frame (2010 and 2011) or to a three-year time frame (2009-2011) and, therefore,
11 our analysis is necessarily limited to these time periods.

12 **CenturyLink**

13 **Q: Please describe generally CenturyLink's origin and parent corporation.**

14 A: When Sprint and Nextel merged in 2006, Sprint spun off United Telephone, its local
15 operations,³⁴ which had historically served New Jersey as an ILEC. In 2009, United
16 Telephone transferred its control to CenturyTel, Inc.³⁵ Then, CenturyTel acquired Qwest

³³ / See Verizon NJ response to RC-VNJ-6.

³⁴ / *1/M/0 United Telephone Company of New Jersey, Inc. d/b/a Sprint and LTD Holding Company for Approval Pursuant to N.J.S.A. 48:2-51.1 and N.J.S.A. 48:3-10 of a Change in Ownership and Control*, BPU Docket No. TM05080739, *Order*, March 9, 2006.

³⁵ / The Board approved the transfer of control from United NJ to CenturyTel in 2009. *Notification of CenturyTel, Inc. and United Telephone Company of New Jersey, Inc. d/b/a Embarq of an Indirect Transfer of Control*, BPU Docket No. TM08111017. See stipulation among United NJ, CenturyTel, and Rate Counsel, dated January 29, 2009, which the Board approved. Among other things, CenturyTel agreed "that any applicable unexpired commitments made by United NJ in *1/M/0 United Telephone Company of New Jersey, Inc. d/b/a Sprint and LTD Holding Company for Approval*

1 (then the nation's third largest local exchange carrier) creating CenturyLink.³⁶ CenturyLink
2 is now the nation's third largest local exchange carrier.³⁷ As a result of these various
3 corporate changes, CenturyLink's focus has broadened significantly beyond that of serving
4 as an ILEC in New Jersey.

5 **Q: Please describe CenturyLink's residential customers.**

6 **A:** CenturyLink serves <<<BEGIN CONFIDENTIAL [REDACTED] END CONFIDENTIAL>>>
7 primary residential lines and <<<BEGIN CONFIDENTIAL [REDACTED] END
8 CONFIDENTIAL>>> additional residential lines³⁸ in 26 exchanges located in
9 municipalities in the northwest region of New Jersey.³⁹ There are <<<BEGIN
10 CONFIDENTIAL [REDACTED] END CONFIDENTIAL>>> households in CenturyLink's
11 territory.⁴⁰ Confidential Exhibit SMB-C-11 summarizes, by CenturyLink wire center, the

Pursuant to N.J.S.A. 48:2-51.1 and N.J.S.A. 48:3-10 of a Change in Ownership and Control, Order, BPU Docket No. TM05080739, dated March 9, 2006" would "continue in effect and will be unchanged as a result of the Transaction," Stipulation, at 2.

³⁶ / *In the Matter of Qwest Communications Company and CenturyTel, Inc. for Approval of Control of Qwest Communications Company LLC*, Docket No. TM10050343. On December 1, 2010, the Applicants, the Division of Rate Counsel and the Staff of the Board of Public Utilities ("BPU") submitted a stipulation to the Board of Public Utilities, which the Board approved on December 16, 2010. Docket No. TM10050343, Order.

³⁷ / *Applications filed by Qwest Communications International Inc. and CenturyTel, Inc. d/b/a CenturyLink for Consent to Transfer Control*, WC Docket No. 10-110, *Memorandum Opinion and Order*, FCC-11-47, released March 18, 2011, at para. 43.

³⁸ / These data correspond with September 2011. CenturyLink confidential Attachment to RC-CTL-6 Revised, reproduced in part as Confidential Exhibit SMB-C-11. In December 2010, CenturyLink served <<<BEGIN CONFIDENTIAL [REDACTED] END CONFIDENTIAL>>> primary lines and <<<BEGIN CONFIDENTIAL [REDACTED] END CONFIDENTIAL>>> additional lines. *Id.*

³⁹ / CenturyLink response to RC-CTL-4 (list of wire centers), reproduced as Exhibit SMB-12; RC-CTL-5 (list of municipalities), reproduced as Exhibit SMB-13; and Attachment to RC-CTL-89-A (exchange map), reproduced as Exhibit SMB-14.

⁴⁰ / CenturyLink response to RC-CTL-10 (see Exhibit SMB-15) for a listing of the quantities of households by wire center.

1 quantities of (1) primary residential lines; (2) additional residential lines; (3) Lifelines; and
2 (4) total business lines.⁴¹

3 **Q: Do CenturyLink’s residential customers continue to order basic local exchange service**
4 **on an “unbundled,” i.e., standalone basis?**

5 **A: Yes. We have not been able to determine the percentage of such customers from**
6 **CenturyLink’s data responses, but, as Table C-2 below shows, approximately <<<BEGIN**
7 **CONFIDENTIAL [REDACTED] END CONFIDENTIAL>>> of the installation orders over the**
8 **most recent twelve months for which we have data (October 2010 through September 2011)**
9 **are for unbundled residential local exchange service. Furthermore, <<<BEGIN**
10 **CONFIDENTIAL [REDACTED]**
11 **[REDACTED]**
12 **[REDACTED] END CONFIDENTIAL>>>.**

13

⁴¹ / A separate exhibit, Confidential Exhibit SMB-C-16, incorporates by reference the complete revised Confidential Attachment RC-CTL-6, which, in addition to these four categories of information, also includes business lines disaggregated by customer demand. Confidential Attachment RC-CTL-2 includes the number of customers per service provided by CenturyLink and is included as Confidential Exhibit SMB-C-17.

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Table C-2
Residential Installation Orders: Standalone versus Bundled⁴²
October 2010 – September 2011
CenturyLink

<<<BEGIN CONFIDENTIAL

END CONFIDENTIAL>>>

Q: Have you also examined demand by CenturyLink’s business customers for local exchange service?

⁴² / CenturyLink confidential response to RC-CTL-42.

1 A: Yes. CenturyLink provided the number of business customers with a specified number of
2 lines in response to RC-CTL-59, which we incorporate by reference as Confidential Exhibit
3 SMB-C-18. Table C-3, which is based on this response, shows that <<<BEGIN
4 CONFIDENTIAL [REDACTED] END CONFIDENTIAL>>> of the total business lines
5 served by CenturyLink are to customers that order 10 or fewer lines and that <<<BEGIN
6 CONFIDENTIAL [REDACTED] END CONFIDENTIAL>>> of CenturyLink's business
7 customers purchase a single line.

8
9 **Table C-3**

10 **Distribution of Business Demand for Local Exchange Service⁴³**
11 **CenturyLink**

12 <<<BEGIN CONFIDENTIAL
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⁴³ / CenturyLink confidential attachment RC-CTL-59, reproduced as Confidential Exhibit SMB-C-18, by reference. The seeming anomaly in the first row of the table of data reproduces the data as it was provided by CenturyLink.

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END CONFIDENTIAL>>>

Q: Did you examine data regarding CenturyLink’s discretionary services and directory assistance?

A: Yes. We discuss our analysis in Sections V and VI, below.

Q: Did you analyze data regarding competitors’ presence in CenturyLink’s serving territory?

A: Yes. We summarize our analysis of these data in Section IV below.

Rates for ILECs’ Services

Q: Please summarize the rates for the four rate-regulated services.

A: Table 4 summarizes the rates that are presently in effect and also shows the stipulated maximum rates in parentheses. We summarize ILEC rates for selected discretionary services in Section V, below.

Table 4

Rates for Services Covered by Stipulations⁴⁴

	CenturyLink	Verizon NJ
Residence Local Exchange	\$15.45 (\$15.45)	\$16.45 (\$16.45)
Business Local Exchange	\$24.50 (\$25.50)	\$20.89 (\$25.50)
Installation	\$30.00 (\$30.00)	\$28.25 (\$50.00)
Directory Assistance (after 2 call monthly allowance)	\$1.50 (\$1.50)	\$1.50 (\$1.50)

Quality of ILECs' Services

Q: What is the relevance of the level of quality of the service that the ILECs offer to their customers to this proceeding?

A: The quality of service provided (e.g., timeliness of the installation and repair of service) and the way that a company chooses to allocate and assign resources (e.g., the deployment priorities for service technicians between DSL and FiOS versus basic local exchange service) are barometers of the level of competition in relevant product markets. Also, the degree to which service quality varies among different geographic markets conveys information about whether competition may be emerging more quickly in some areas of the

⁴⁴ / United Telephone Company of New Jersey, Inc., d/b/a CenturyLink, Tariff N.J. B.P.U. – No. 3: Section A5, 5.1.2, fifth revised page 12, effective August 1, 2011 (Residence, Business); Section A5, 5.6.1, fourth revised page 90.2, effective September 10, 2010 (DA); Section A3, 3.1.1, fourth revised page 2.2, effective October 17, 2008 (Installation); Verizon New Jersey Inc. Tariff B.P.U.-N.J.-No. 2, Exchange and Network Services: Section A5, 5.2.1, twenty-second revised page 30, effective December 18, 2010 (Residence, Business); Section A5, 5.7.2, ninth revised page 81, effective

1 state (e.g., urban areas) than in other areas (e.g. rural areas).

2 **Q: Did Rate Counsel seek information about Verizon NJ's quality of service?**

3 A: Yes. However, Verizon NJ did not provide the requested information.⁴⁵

4 **Q: Did Rate Counsel seek information about the allocation of resources between Verizon**
5 **NJ's regulated and unregulated services?**

6 A: Yes. However, Verizon NJ refused to provide the requested information that would have
7 enabled us to analyze these aspects of the competitiveness of New Jersey markets. By way
8 of illustration, RC-VNJ-76 concerns the way in which Verizon NJ assigns its technicians to
9 the installation and maintenance of regulated (e.g., basic local exchange service) and
10 unregulated services (e.g., DSL, and FiOS) services. Because Verizon NJ failed to provide
11 the requested information, the Board cannot gauge whether regulated services are improperly
12 subsidizing unregulated ones and whether Verizon NJ is failing to place sufficient priority on
13 basic dial tone service.⁴⁶

14 **Q: Would you expect a supplier in a competitive market to expend effort to assess customers'**
15 **level of satisfaction and desired service levels?**

16 A: Yes. However, Verizon NJ failed to provide evidence of such efforts. For example, RC-VNJ-77
17 asks for "any and all internal company documents, guidelines, procedures, policies, and
18 customer service representative scripts regarding the way in which service representatives
19 determine when customers want service installed and how customer service representatives

August 15, 2009 (DA); Section A3, 3.1.3, seventeenth revised page 7, effective February 1, 2009 (Installation).

⁴⁵ / See, e.g., Verizon NJ's responses to RC-VNJ-64 through RC-VNJ-74.

⁴⁶ / See also, Verizon NJ response to RC-VNJ-75.

1 determine what appointment dates are acceptable to customers.”

2
3 Similarly, we attempted to obtain information relative to varying levels of competition in
4 differing geographic markets – all else being equal, one would expect higher levels of
5 service quality in areas with relatively higher numbers of alternatives. RC-VNJ-78 asks:
6 “Please identify the districts, regions, or whatever geographic units are used for: (a)
7 monitoring; and (b) managing the quality of basic local exchange service.” Verizon NJ also
8 did not respond to this question.

9 **Q: Did you seek information about Verizon NJ regarding its internal assessment of the**
10 **quality of service that it offers its customers?**

11 **A: Yes. RC-VNJ-79 asks:**

12
13 In the past four years, has Verizon NJ or any entity of behalf of Verizon NJ
14 conducted any analyses, reviews, or reports of:

- 15 a. The quality of Verizon NJ’s local exchange services;
16 b. The comparison of the quality of Verizon NJ’s local exchange
17 services with the quality of its competitors’ services;
18 c. Its customers’ satisfaction?

19 If the response is in the affirmative, please provide all such reports.

20
21 However, Verizon NJ objected to the question and refused to respond. In a competitive
22 market, one would expect a company to undertake such studies.⁴⁷

23 **Q: Are there other reasons to be concerned about Verizon NJ’s quality of service?**

24 **A: Yes. In recent years, Verizon has announced the layoff of numerous employees in the**
25 **Mid-Atlantic region, and Verizon NJ recently announced yet another 336 layoffs in New**

⁴⁷ / See also responses to RC-VNJ-82 (regarding studies, etc. of customers’ satisfaction with installation intervals)

1 Jersey.⁴⁸

2 **Q: Please summarize your major findings regarding your analysis of CenturyLink's**
3 **responses to Rate Counsel's questions regarding service quality.**

4 A: CenturyLink indicates that it "resolved" four complaints in 2010 (2 for harassing phone
5 calls; 1 physical facility issue; and 1 billing dispute) and two complaints in 2011 (1 porting
6 issue and 1 DSL service issue).⁴⁹ However, other than this response, CenturyLink refused to
7 answer the majority of Rate Counsel questions concerning service quality and resource
8 allocation between rate-regulated and other services. For example, CenturyLink objected to
9 providing information regarding installation intervals and commitments met as well as
10 trouble reports as not relevant.⁵⁰ Rate Counsel also sought information about how
11 CenturyLink determines the order of priority for fulfilling orders and technicians for DSL
12 service; general information about managing service quality problems and about the quality
13 of service provided to which CenturyTel also objected.⁵¹ Rather than directly responding
14 to Rate Counsel's question, CenturyLink has referred Rate Counsel to the company's Merger
15 Report in Docket No. TM10050343, provided on a quarterly basis to Rate Counsel (see
16 response to RC-CTL-97) for information on the number of technicians and outside plant
17 technicians.

and RC-VNJ-87 (regarding out-of-service refunds provided by Verizon NJ to its customers);

⁴⁸ / "Verizon lays off 336 N.J. workers because of drop off in copper line customers," Eliot Caroom, The Star Ledger, February 03, 2012.

⁴⁹ / CenturyLink response to RC-CTL-19.

⁵⁰ / CenturyLink response to RC-CTL-61 through RC-CTL-71.

⁵¹ / See, e.g., CenturyLink response to RC-CTL-72 through RC-CTL-85.

1 **Q: What is the consequence of the ILECs' failure to respond to multiple questions that**
2 **Rate Counsel propounded on this topic?**

3 A: The Board lacks the information necessary to assess various critical aspects of Verizon NJ's
4 and CenturyLink's responses to and interactions with their customers in markets that they
5 likely will contend are competitive. For example, in the absence of responses, we were
6 unable to assess whether Verizon NJ gives preference to its Freedom customers over its
7 standalone customers when installing or repairing service. We have no way of assessing
8 whether Verizon NJ deploys disproportionate levels of resources to its DSL, FiOS, and triple
9 play packages, which, in turn, would shed light on the levels of competition that Verizon NJ
10 confronts in relevant geographic and product markets.

11 **Q: Are you suggesting that the Board embark on a detailed investigation of the carriers'**
12 **service quality within this proceeding?**

13 A: No. We are simply suggesting that some basic service quality information is entirely
14 germane to the proceeding and to the Board's assessment of the levels of competition that
15 carriers confront. If, upon review of such data, the Board should determine that service
16 quality problems exist and that consumers require better regulatory protection against service
17 quality deterioration, the Board may choose to open a more in-depth investigation into
18 service quality.⁵² We are unaware of the last time that the Board investigated Verizon NJ's

⁵² / Other states have investigated Verizon's service quality. See e.g., Massachusetts D.T.C. 09-1, In re Verizon Service Quality in Western Massachusetts; In the Matter of Appropriate Forms Of Regulating Telephone Companies, Maryland Public Service Commission, Case No. 9133. Verizon's service quality has also been an issue of concern raised in many state investigations of its spin-off of its local operations to FairPoint and to Frontier. See, e.g., Verizon New England Inc., Bell Atlantic Communications, Inc., NYNEX Long Distance Company, Verizon Select Services Inc. and FairPoint Communications, Inc. Joint Petition for Authority to Transfer Assets and Franchise to FairPoint

Testimony of Susan M. Baldwin and Sarah M. Bosley
NJ BPU Docket No. TX11090570

1 service quality. In the absence of competitive alternatives, basic exchange service customers
2 rely on the Board's oversight to ensure that dial tone lines are installed and repaired in a
3 timely manner, and directory assistance is provided in a timely and reliable manner.
4

Communications, Inc., New Hampshire Public Utilities Commission Docket No. DT-07-011 (2007); Joint Application of Frontier Communications Corporation and Verizon West Virginia Inc. and certain affiliates for approval of the transfer of Verizon's local exchange and long distance business in West Virginia to companies to be owned and controlled by Frontier Communications Corporation, Public Service Commission of West Virginia Case No. 09-0871-T-PC (2009-2010).

1 **IV. LOCAL EXCHANGE MARKETS**

2
3 **Market structure**

4 **Q: What aspects of market structure have you examined in order to assess the level of**
5 **competition in relevant markets?**

6 **A:** We have relied on the statutory criteria, discussed above, that provide the “minimum”
7 analytic framework for assessing the level of competition in relevant markets, as well as on
8 traditional economics criteria. The legislation requires the Board to develop standards of
9 competitive service that, “at a minimum,” include evidence with respect to (1) ease of
10 market entry; (2) presence of other competitors; and (3) availability of like or substitute
11 services in the relevant geographic area. Ease of market entry can be examined, in part, by
12 the presence of other competitors (or supply). Availability of like or substitute services in
13 relevant geographic area concerns both supply (is it available in the geographic area of the
14 consumer?) and demand (does the customer consider it an alternative?)

15 **Q: Please describe the significance of market definition in analyzing the structure of**
16 **markets.**

17 **A:** In order to assess the status of competition and the impact of deregulation on consumers, it is
18 critical to define the relevant markets. Economists generally agree that defining the market
19 properly is an essential first step to assessing market structure:

20 The first step in any analysis of competition in a market is to properly define
21 the product and geographic dimensions of the relevant market. If a market is
22 defined either too broadly or too narrowly, spurious conclusions may arise.⁵³

^{53/} David L. Kaserman and John W. Mayo, “Competition in the Long-Distance Market,” Handbook of

1
2 In considering substitution possibilities, further economic discussion of the complexities of
3 defining relevant products is as follows:

4 The ideal definition of a market must take into account substitution
5 possibilities in both consumption and production. On the demand side, firms
6 are competitors or rivals if the products they offer are good substitutes for
7 one another in the eyes of buyers. But how, exactly, does one draw the line
8 between 'good' and 'not good enough' substitutes.⁵⁴
9

10 For some, a ticket to a concert might be interchangeable with a ticket to theater, yet for
11 others, the theater outing might not be viewed as a good enough substitute for hearing music.

12 We demonstrate below why intermodal services should not be viewed as a "good enough"
13 substitute for wireline service.

14
15 Consumers are in a far better position than the ILECs to decide whether wireless, Voice over
16 Internet Protocol ("VoIP"), or cable represent "good" substitutes for basic
17 telecommunications service. The most valuable and unbiased evidence about consumers'
18 preferences is their purchasing decisions.⁵⁵ For example, consumers attribute high
19 "utility"⁵⁶ to the ability to reach medical, safety, and emergency assistance in a reliable,

Telecommunications Economics, Vol.1, Martin E. Cave, Sumit K. Majumdar, and Ingo Vogelsang, eds., (Elsevier: Amsterdam, 2002), at 512.

^{54/} *Industrial Market Structure and Economic Performance*, F. M. Scherer (Chicago: Rand McNally & Company, 1970), at 53.

^{55/} Consumers, through their purchasing decisions, seek to maximize their utility, and in so doing show their "preferences." See generally, Mas-Colell, Andreu, Michael D. Whinston and Jerry R. Green, *Microeconomic Theory* (New York: Oxford University Press, 1995).

^{56/} As defined in one textbook, "it is possible to show formally that people are able to rank in order all possible situations from the least desirable to the most. Following the terminology introduced by the nineteenth-century political theorist Jeremy Bentham, economists call this ranking utility. We will also follow Bentham by saying that more

1 timely manner. Reliability may be important for consumers for diverse reasons such as to
2 meet the needs of young children, the elderly, or other household members and business
3 employees. The fact that some people may choose to abandon wireline entirely does not
4 alter the fact that the vast majority of households and small businesses continue to place a
5 high value on the public safety characteristics of wireline telephone service. The preferences
6 of a minority certainly do not constitute evidence that intermodal technology offers an
7 economic substitute for the majority of consumers who continue to rely on traditional
8 wireline service.

9
10 The proper definition of relevant markets is essential for analyzing the status of competition.
11 Relevant markets include product markets (*i.e.*, mass market vs. enterprise market),
12 geographic market (*i.e.*, the physical boundaries), and customer class (*i.e.*, residential vs.
13 business). Economic theory relies, in part, on the presence of price discrimination to define
14 markets.⁵⁷ In their *Horizontal Merger Guidelines*, the U.S. Department of Justice (“DOJ”)
15 and the Federal Trade Commission (“FTC”) use a hypothetical monopolist test to identify a
16 group of products that are “reasonably interchangeable” and requires that “a hypothetical
17 profit-maximizing firm, not subject to price regulation, that was the only present and future
18 producer or seller of those products (“hypothetical monopolist”) likely would impose at least
19 a small but significant and non-transitory increase in price (“SSNIP”) on at least one product

desirable situations offer more utility than do less desirable ones.” Walter Nicholson, *Microeconomic Theory: Basic Principles and Extensions*, seventh edition, (The Dryden Press, 1998), at 70 (footnotes omitted; emphasis in original).

⁵⁷/ Horizontal Merger Guidelines, Department of Justice and the Federal Trade Commission, issued August 19,

1 in the market, including at least one product sold by one of the merging firms. “Market
2 definition focuses solely on demand substitution factors, i.e., on customers’ ability and
3 willingness to substitute away from one product to another in response to a price increase or
4 a corresponding non-price change such as a reduction in product quality or service.”⁵⁸

5
6 The Federal Communications Commission (“FCC”) has previously stated:

7 Based on the record in this proceeding, we identify three relevant
8 product markets for our mass market analysis: (1) local service; (2)
9 long distance service; and (3) bundled local and long distance
10 service. In previous wireline mergers, the Commission focused on
11 local and long distance services. Based on recent market and
12 technological developments, including increased subscription to
13 mobile wireless service and VoIP services that provide a bundle of
14 local and long distance services, we find it appropriate to refine our
15 market analysis, including defining a separate relevant product
16 market for bundled local and long distance service.

17
18 The Commission defines product markets from the perspective of
19 customer demand. We thus begin our analysis by recognizing two
20 types of consumer demand for communications services: (1) demand
21 for “access” and (2) demand for “usage.” The consumer demands
22 “access” from a provider so as to be able to connect to a
23 communications network. Depending upon the type of access chosen
24 by the consumer, the consumer will be able to connect to a wireline
25 telephone network, a mobile wireless network, or the Internet.⁵⁹

26
27 **Companies offer telecommunications services to residential and business consumers using**
28 **various technologies, and consumer demand varies by platform and customer class.**

29
30 **Q: Please describe generally the ways in which households and businesses in New Jersey**

2010 (“Horizontal Merger Guidelines”). See, for example, *id.*, at 4.1.4.

⁵⁸ / Horizontal Merger Guidelines, 4.

⁵⁹ / SBC Communications, Inc. and AT&T Corp. Applications for Approval of Transfer of Control, WC Docket No. 05-65, Memorandum Opinion and Order, 20 FCC Rcd 18290 (2005) (“SBC/AT&T Merger Order”), at paras. 82-83,

1 **obtain access to the public telecommunications network.**

2 **A:** Households and businesses obtain access to the public telecommunications network by
3 subscribing to ILECs' retail services or to their rivals' services. ILEC competitors offer
4 retail service to the residential and business customer classes using various platforms:

- 5 • Leasing incumbents' wholesale services (resale, Wholesale Advantage,⁶⁰ and loops
6 and EELs)⁶¹ in order to offer wireline services;
- 7 • Deploying their own facilities (this is the mode typically used by cable companies to
8 serve residential markets) to offer wireline services; and
- 9 • Deploying wireless services.

10 **Q:** **Have you reviewed data on the composition of consumers' demand for local exchange**
11 **service in New Jersey?**

12 **A:** Yes. We have reviewed various sources of public and proprietary information including, for
13 example, the FCC's Local Competition Report, the Board's data on assessments on intrastate
14 telecommunications revenues, a comprehensive survey conducted by Rate Counsel,
15 responses to discovery propounded on Verizon NJ and CenturyLink, company web sites, and
16 the ILECs' tariffs. We analyze these various sources of information throughout our
17 testimony.

notes omitted.

⁶⁰ / Verizon NJ offers its rivals "Wholesale Advantage" which provides a platform of unbundled network elements including switching. Previously, this was offered as "unbundled network element – platform" or "UNE-P."

⁶¹ / EEL is an acronym for Enhanced Extended Loop or Link, which is a loop to interoffice transport for CLECs that are located in a different end office switch from their end user.

1 **Public FCC data demonstrates that ILECs still own or control the vast majority of wireline**
2 **telephone lines in their operating territory in New Jersey.**

3
4 **Q: Have you reviewed the FCC's most recently reported data regarding local competition?**

5 **A:** Yes. According to the FCC, as of December 31, 2010, of the approximate 5.4 million total
6 wireline retail telephone lines in service in New Jersey,⁶² approximately 2.94 million were
7 served by incumbent carriers (i.e., Verizon, CenturyLink, and Warwick) and 2.46 million
8 were served by non-incumbents. Non-incumbent carriers provide 46% of wireline telephone
9 service in New Jersey. The incumbents continue to provide over half of the wireline service
10 in the state.⁶³ Furthermore, as our testimony demonstrates, it is critically important to
11 examine markets not only on a statewide basis, but also in relevant geographic markets.

⁶² / Wireline retail local telephone service encompasses two wireline technologies, as defined by the FCC in its Local Competition Report: "end-user" switched access lines and interconnected VoIP "subscriptions." Industry Analysis and Technology Division, Wireline Competition Bureau, Federal Communications Commission, *Local Telephone Competition: Status as of December 31, 2010*, rel. October 2011 ("FCC Local Comp Report"), at 1.

⁶³ / FCC Local Comp Report, at Table 8. The FCC may release a new report soon with more up to date statistics and we will include any updates in rebuttal testimony.

Table 5

**Total Switched Access Lines and VoIP Subscriptions
in New Jersey as of December 31, 2010⁶⁴**

	Number of lines	% of Total Switched Access Lines and VoIP Lines in New Jersey
Total ILEC	2,937,000	54%
Resold LEC	440,000	8%
ILEC UNEs	161,000	3%
CLEC-owned local loops	339,000	6%
VoIP Subscriptions	1,519,000	28%
Total Non-ILEC	2,459,000	46%
Total Switched Access and VoIP Lines	5,396,000	

In the residential market in New Jersey, of the approximate 3.04 million lines in service, 1.65 million lines were served by incumbents and 1.39 million lines (or 46%) were served by non-incumbents.⁶⁵

⁶⁴ / FCC Local Comp Report, at Tables 8 and 14. We use the term Non-ILEC, as does the FCC, to refer to companies offering telephone service in competition with the incumbent. As we discuss in more detail below, the cable companies are the primary competitors to the ILECs.

⁶⁵ / FCC Local Comp Report, at Table 9.

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Table 6

**Total Residential Switched Access Lines and VoIP Subscriptions
In New Jersey as of December 31, 2010⁶⁶**

	Number of Residential Lines	Percent of Total Lines
ILEC		
Switched access lines	1,516,000	50%
VoIP purchased as stand-alone	-	
VoIP purchased bundled with Internet	133,000	4%
ILEC Total	1,649,000	54%
Non-ILEC		
Switched access lines	83,000	3%
VoIP purchased as stand-alone	147,000	5%
VoIP purchased bundled with Internet	1,163,000	38%
Non-ILEC Total	1,393,000	46%
Total lines (ILEC and non-ILEC)	3,042,000	

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Many of the CLEC wireline competitors rely on the incumbent carrier for the provision of their retail services. The table below shows that 18% of all non-incumbent wireline service (switched access and VoIP subscriptions) in New Jersey are resold incumbent lines and another 7% of the competitor lines rely on ILEC UNEs. Only 14% of the non-incumbent lines (or 6% of total lines (incumbent and non-incumbent)) are served by “traditional” facilities-based competitors.⁶⁷

⁶⁶ / FCC Local Comp Report, at Table 9.

⁶⁷ / “Traditional,” as used herein refers to CLECs providing switched access lines as opposed to cable

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Table 7
Composition of Non-Incumbent Wireline Service – December 31, 2010⁶⁸

	New Jersey		Nationwide	
	<i>Number of lines</i>	<i>% of Total</i>	<i>Number of lines</i>	<i>% of Total</i>
Resold LEC	440,000	18%	7,983,000	16%
ILEC UNEs	161,000	7%	6,959,000	14%
CLEC-owned local loops	339,000	14%	7,293,000	14%
VoIP Subscriptions	1,519,000	62%	28,817,000	56%
Total Non-ILEC	2,459,000	100%	51,052,000	100%

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7 **Cable companies compete only in the bundles market, leaving low-income and moderate-**
8 **income consumers as well as those who do not want to buy bundles with few alternatives.**
9

10 **Q: Does the FCC report provide information about the composition of CLECs' residential**
11 **lines in New Jersey?**

12 **A: Yes. While the FCC report does not detail the composition of the residential lines (i.e.**
13 **whether a CLEC line was resold, UNE, or facilities-based), it does differentiate between**
14 **switched access lines and VoIP subscriptions. Just 6% of the residential CLEC lines were**
15 **switched access lines. The overwhelming majority of CLEC residential lines provided in**
16 **New Jersey – 94% – were VoIP lines, provided by cable companies.⁶⁹ It is evident from**
17 **this data that this market has evolved into a duopoly (within any given relevant geographic**
18 **market) consisting of the incumbent local exchange carrier and whichever of the incumbent**

companies offering VoIP telephone service.

⁶⁸ / FCC Local Comp Report, at Table 14.

⁶⁹ / FCC Local Comp Report, at Table 9.

1 cable companies serves that area (the major cable companies in New Jersey are Comcast,
2 Cablevision, and Time Warner).⁷⁰

3 **Table 8**

4 **Composition of Residential Non-Incumbent Wireline Service – December 31, 2010**

5

	<i>Number of lines</i>	<i>% of Total</i>
Switched access lines	83,000	6%
VoIP purchased as stand-alone	147,000	11%
VoIP purchased as bundled with Internet	1,163,000	83%
Non-ILEC Total	1,393,000	

6

7 **Q: What do you conclude from Table 8, above?**

8 **A:** The vast majority of the non-ILEC interconnected VoIP subscriptions are provided as a part
9 of a bundle with cable modem broadband service.⁷¹ This characteristic of markets
10 demonstrates that even the minimal competition that the cable-telecommunications duopoly
11 provides is limited to those customers who seek a “double play” (consisting of voice and
12 broadband access to the Internet) or “triple play” offering (consisting of voice, broadband
13 access to the Internet and video service).⁷²

⁷⁰ / Comcast serves 24.2 million cable customers, 12.1 million high-speed Internet customers, and 3.0 million digital voice customers; Cablevision serves 3.0 million households, 2.1 million Internet customers, and 1.3 million digital voice customers; and Time Warner serves approximately one million customers. New Jersey Cable Telecommunications Association website, <http://www.cablenj.org/AboutUs/MemberCompanies.asp> (accessed February 8, 2012). A map of services areas is available at: <http://www.cablenj.org/AboutUs/NJCableFranchiseMap.asp>.

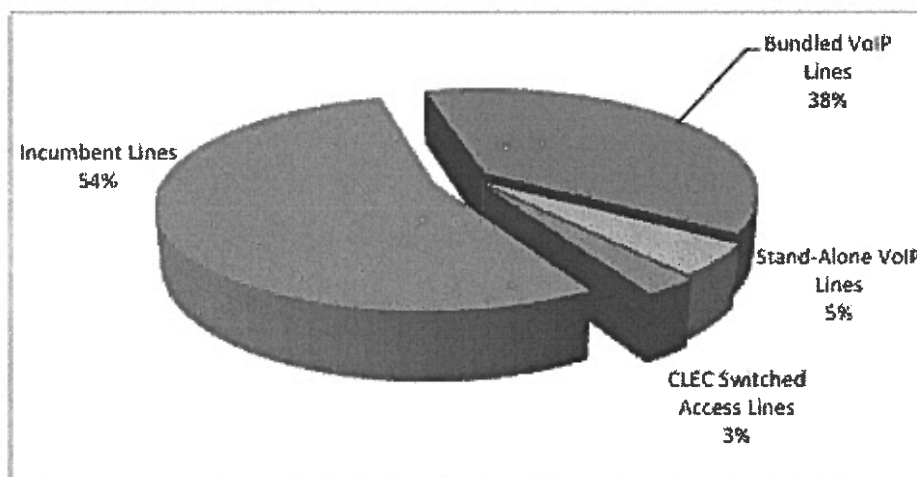
⁷¹ / FCC Local Comp Report, at Table 9.

⁷² / As shown in the FCC’s Local Comp. Report, one cannot determine whether the VoIP is being purchased as part of a double play or triple play package, but, because cable companies are the primary provider of VoIP, it is likely that many of the packages are triple play.

1
2 Furthermore, even when they are offered on a voice-only basis, unlike ILECs' standalone
3 basic local exchange services, the cable companies' offerings include intrastate and interstate
4 long distance (toll) calling, and are designed to appeal to a discrete market comprised of
5 customers that want – and are willing and able to pay more for – a bundle that consists of
6 both local and long distance services. Figure 1 below demonstrates the dominance of the
7 incumbent carriers' services and cable bundle packages in the residential wireline market in
8 New Jersey, and demonstrates the lack of effective substitutes for standalone voice service.

9 **Figure 1**

10 **Residential Wireline Market in New Jersey**
11 **as of December 31, 2010**
12



13
14
15 We discuss the implications of cable entry in the telephone market in more detail below,
16 and explain why a cable-telco duopoly in the provision of bundles does not protect the

1 basic exchange consumer.

2 **Wireless use is prevalent but, for the vast majority of households, does not yet represent an**
3 **economic substitute for basic local exchange service.**

4
5 **Q: Have you examined demand for wireless services and the degree to which consumers**
6 **consider wireless service as a substitute for basic local exchange service?**

7 A: Yes. Some consumers have become “cord-cutters,” meaning that they no longer subscribe to
8 wireline service (i.e., they rely solely on their wireless telephone). In the first six months of
9 2011,⁷³ 31.6% of American homes only had wireless phones.⁷⁴ It is important to note,
10 however, that wireless-only households have certain distinct characteristics. For example, a
11 report released by the CDC, based on the National Health Interview Survey, states: “The
12 percentage of adults living in households with only wireless telephones decreased as age
13 increased beyond 35 years: 34.3% for adults aged 35-44 years; 21.6% for adults aged 45-64
14 years; and 7.9% for adults aged 65 years and over.”⁷⁵ These data show that elderly
15 consumers rarely view wireless service as an economic substitute for wireline service (they
16 may own wireless service, but they use wireless service *in addition to* rather than *instead of*
17 wireline service). Further, homes with infants and small children may choose to retain
18 wireline service in order to reach 9-1-1 and emergency services more reliably than they

⁷³ / The Center for Disease Control and Prevention’s (“CDC”) National Center for Health Statistics survey was undertaken between January and June 2011.

⁷⁴ / Stephen J. Blumberg, Ph.D., and Julian V. Luke, Division of Health Interview Statistics, National Center for Health Statistics, Center for Disease Control and Prevention, *Wireless Substitution: Early Release of Estimates from the National Health Interview Survey, January – June 2011*, released December 21, 2011 (“CDC Wireless Substitution”), available at: <http://www.cdc.gov/nchs/nhis.htm>.

⁷⁵ / *Id.*, at 2.

1 could with wireless service.⁷⁶ Also, consumers in rural areas where wireless service may be
2 less reliable than it is in urban areas may be less likely to cut the wireline cord.⁷⁷

3 **Q: What do the data show about the percentage of consumers that rely solely upon**
4 **wireless telephones specifically in New Jersey?**

5 A: The number of wireless-only households varies by region and by state. In the first six
6 months of 2011, only 18.8% of all adults living in the Northeast (including New Jersey)
7 lived in wireless-only households compared to 33.6% of adults living in the South.⁷⁸ In a
8 separate (but older) report on state-specific data, based on the same National Health
9 Interview Survey, the CDC researchers estimated that 12.8% of New Jersey households were
10 wireless-only in 2010.⁷⁹ The same report estimated a 26.5% cord-cutting rate for adults in
11 Essex County and a 12.4% rate for adults living in all other areas of New Jersey.⁸⁰

12 **Q: What are the implications of these cord-cutting estimates for this proceeding?**

⁷⁶ / Adults with children are less likely to be cord-cutters than adults living alone or in a group situation. *Id.*, at 9, Table 2.

⁷⁷ / Wireless only use is most prevalent among young adults, who are typically more transient than the general adult population, have limited discretionary income and, perhaps, are less cautious about their personal safety. Having grown up in an era of mobile phone usage, if they have to choose, for economic reasons, between a mobile wireless phone and a wired one, they choose the wireless option. Using wireless service allows them, among other things, to avoid paying frequent installation charges to establish wired telephone service. However, these characteristics are likely to fade as adults become homeowners, have children, and settle into their careers.

⁷⁸ / *Id.*

⁷⁹ / Stephen J. Blumberg, Ph.D., and Julian V. Luke, Division of Health Interview Statistics, National Center for Health Statistics; Nadarajasundaram Ganesh, Ph.D., and Michael E. Davern, Ph.D., NORC at the University of Chicago; and Michel H. Boudreaux, M.S., and Karen Soderberg, M.S., State Health Access Data Assistance Center, University of Minnesota, *Wireless Substitution: State-Level Estimates From the National Health Interview Survey, January 2007-June 2010*, National Health Statistics Reports, Number 39, April 20, 2011, at 8. (Available at: <http://www.cdc.gov/nchs/data/nhsr/nhsr039.pdf>).

⁸⁰ / *Id.*

1 A: Certainly, there is some portion of the population that views wireless as a substitute for the
2 ILECs' basic local exchange service, but most households still rely on their basic wireline
3 telephone for critical emergency services and to access other services in the community. The
4 majority of households in New Jersey *are not* wireless-only households. Indeed, one can
5 assume that those consumers that remain on the wireline network do so because of some
6 compelling reason such as: access to emergency service, spotty wireless coverage, concerns
7 about power outages, or age-based discomfort with alternative technologies. Wireless
8 services are most properly viewed as complements, instead of an economic substitute, to
9 wireline basic local exchange service for the majority of consumers. The availability of an
10 alternative, higher-priced, less-reliable service does not make the standalone basic local
11 exchange service market effectively competitive.⁸¹

12 **Q: Has the DOJ analyzed whether wireless and wireline services are economic substitutes?**

13 A: Yes, and quite recently. The DOJ has concluded that wireless and wireline services are in
14 different product markets. In its complaint regarding AT&T's proposed acquisition of T-
15 Mobile, the DOJ stated, among other things: "Because neither fixed wireless services nor
16 wireline services are mobile, they are not regarded by consumers of mobile wireless
17 telecommunications services as reasonable substitutes."⁸² The DOJ also concluded that

⁸¹ / In its Local Competition Report, the FCC states: "The presentation of mobile wireless telephone subscriber counts in this report does not constitute, or imply, Commission analysis of the extent to which wireline and mobile wireless telephone services are demand substitutes or complements in general or in any particular situation." FCC Local Competition Report, at 1.

⁸² / United States of America v. AT&T, Inc. and T-Mobile USA, Inc., and Deutsche Telekom AG, Complaint, Case No. 1:11-cv-01560, (filed Aug. 31, 2011), at para. 12.

1 “[m]obile wireless telecommunications services accordingly is a relevant product market
2 under Section 7 of the Clayton Act, 15 U.S.C. § 18.”⁸³

3 **Q: Have other states addressed the relationship of wireless service to wireline service?**

4 **A:** Yes. Last year, the California Public Utilities Commission issued a proposed decision in
5 which it made, among others, the following observations and findings regarding wireless
6 service, which, in our view, are applicable in New Jersey as well:⁸⁴

- 7 • Although communications technologies and regulatory rules have evolved
8 since 1996, consumers are still entitled to basic service elements essential for
9 their participation in society.⁸⁵
- 10 • Based on the growing use of wireless or broadband technologies, various
11 carriers thus argue that existing basic service standards should no longer be
12 required nor imposed. Verizon, for example, points to the diversity of
13 products offered by wireless service in addition to mobility, including voice
14 mail, texting and smart phones that provide broadband connectivity allowing
15 music, video and other valued applications. Verizon’s recitation, however,
16 blurs relevant distinctions between basic essentials and more diverse service
17 options. We recognize that modern communication preferences and
18 expectations among consumers reflect a diverse spectrum. The growing
19 demand for this broader diversity of communications services is separate and
20 distinct from the continuing need for essential basic service elements upon
21 which a significant sector of consumers rely. The growing demand for music
22 and video communications does not eliminate the need for basic service
23 elements among those who rely upon them.⁸⁶
- 24 • Likewise, the statistics showing increasing numbers of customers migrating
25 toward wireless service does not negate the importance of existing basic
26 service features for the majority of consumers. The relevant data source for
27 identifying basic service needs is the 95% share of residential market

⁸³ / *Id.*

⁸⁴ / California Public Utilities Commission, Rulemaking 09-06-019, Order Instituting Rulemaking Regarding Revisions to the California High Cost Fund B Program (filed June 18, 2009), Proposed Decision of President Peevey, Decision Adopting Basic Telephone Service Revisions, November 15, 2011.

⁸⁵ / *Id.*, at 11.

⁸⁶ / *Id.*, at 12, cite omitted.

1 penetration that represents the Commission's universal service goal. By
2 contrast, less than 50% of California consumers have chosen to discontinue
3 wireline service. While a growing number of consumers may be willing to
4 give up some basic service elements in favor of wireless, this minority does
5 not determine the preferences or needs of customers that continue to rely
6 upon basic service.⁸⁷

- 7 • These statistics signify that while a majority of the consuming public utilizes
8 wireless communications, most wireless customers still concurrently
9 subscribe to wireline service. Consequently, these statistics indicate that most
10 customers still value features available through wireline basic service that are
11 not otherwise available through their wireless phone. Accordingly, while
12 these statistics indicate a growing use of wireless, wireless service—without
13 wireline at least as a back up-- is still not adequate today to fully meet most
14 consumers' basic calling needs. The protections offered by existing basic
15 service provided by wireline carriers thus remain essential in meeting
16 universal service goals.⁸⁸
- 17 • While the Wireless and other alternative offerings are configured differently
18 from basic service, those offerings currently serve as partial, but not
19 complete, substitutes for basic service for many customers.⁸⁹
- 20 • Although a growing percentage of customers subscribe to wireless or VoIP
21 service for certain communications needs, a majority of customers continue
22 to subscribe to basic wireline service, either alone or in combination with
23 wireless service.⁹⁰
- 24 • While some customers have discontinued wireline service in favor of other
25 communications services, the needs and preferences of that minority of
26 customers do not represent the needs and preferences of the majority of
27 customers that continue to subscribe to basic wireline service.⁹¹

28 **Q: Do you dispute the trend toward increasing use of wireless services?**

29 **A:** Of course not. Wireless telecommunications services indisputably are prevalent and wireless
30 growth continues, but their relevance to this proceeding is limited to those instances where

⁸⁷ / *Id.*, at 13.

⁸⁸ / *Id.*, at 14

⁸⁹ / *Id.*, at 44.

⁹⁰ / *Id.*

1 customers have determined that wireless service is a substitute for, rather than complement,
2 to basic local service. As shown above, the vast majority of New Jersey consumers are not
3 “cutting the cord” (*i.e.* subscribing to wireless service in lieu of wireline service).
4

5 In its order approving the merger of AT&T and BellSouth, the FCC cited its prior conclusion
6 that “the record does not present credible evidence that mobile wireless services have a price
7 constraining effect on all consumers’ demand for primary line wireline services.”⁹² In
8 addition, the FCC observed that the “average cost for mobile wireless services appears to be
9 higher than for wireline local service”⁹³ which “may not make it price competitive for
10 consumers.”⁹⁴ The FCC’s reasoning is still applicable in today’s markets in New Jersey.

11 **Assessment data provides information about the scale of ILECs’ rivals.**

12 **Q: Carriers pay assessments based on their intrastate telecommunications revenues.**
13 **Have you reviewed these assessments as part of your analysis of the scale of the ILECs’**
14 **rivals?**

15 **A: Yes. Confidential Exhibit SMB-C-19, which is based on assessments on New Jersey’s**
16 **telecommunications providers, shows that <<<BEGIN CONFIDENTIAL [REDACTED]**
17 **[REDACTED]**

⁹¹ / *Id.*, at 45.

⁹² / AT&T Inc. and BellSouth Corporation Application for Transfer of Control, WC Docket No. 06-74, Memorandum Opinion and Order, 22 FCC Rcd 5662 (2007) (“AT&T/Bell South Merger Order”), at fn 273, citing *SBC/AT&T Merger Order* at fn 276.

⁹³ / *AT&T/BellSouth Merger Order*, at para. 95.

⁹⁴ / *Id.*, at fn 275.

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[REDACTED]

[REDACTED] **END CONFIDENTIAL>>>** Figure C-2

below illustrates the relative scale of telecommunications providers in New Jersey.

Figure C-2

Carriers by Percent of Gross State Revenues⁹⁵

<<<BEGIN CONFIDENTIAL

END CONFIDENTIAL>>>

Q: Do the assessment data show any trends in telecommunications markets?

⁹⁵ / Board Assessment Data, included in Confidential Exhibit SMB-C-19.

1 A: Yes. Figure C-2 above and Confidential Exhibit SMB-C-19, which is based on the
2 assessment data, show that <<<BEGIN CONFIDENTIAL [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED] END
8 CONFIDENTIAL>>> The evidence of duopoly is masked somewhat by this data,
9 however, because the revenue base for the assessments includes both residential and business
10 services. Were revenue data available with regard to residential services alone, the existence
11 of a duopoly in residential local markets consisting of the incumbent cable companies and
12 incumbent LECs would be shown even more clearly.

13 **Rate Counsel's survey demonstrates a lack of economic substitutes for ILECs' basic local**
14 **exchange service.**

15
16 **Q: Please elaborate on the information in Rate Counsel's survey of carriers in New Jersey.**

17 A: Rate Counsel conducted a comprehensive survey of carriers that are subject to assessment on
18 their intrastate telecommunications revenues because they are certified by the Board as
19 telecommunications providers. The survey provides information about providers'
20 telecommunications offerings and includes pricing information, as well as the amount of
21 their intrastate revenues. We have included two versions of the survey: Confidential Exhibit
22 SMB-C-20 includes assessment data and Exhibit SMB-21 does not include assessment data.

1 The survey results provide further evidence of the lack of substitutes for basic local
2 exchange service.

3 **ILEC-provided data provide evidence of the lack of economic substitutes for basic local**
4 **exchange service.**

5
6 **Q: Did you request data from the carriers regarding the prevalence of different**
7 **alternatives to the incumbents' services, as is evidenced by consumers' actual demand**
8 **for services other than those offered by Verizon NJ and CenturyLink?**

9 A: Yes. The following Verizon NJ responses include relevant information about supply by
10 other carriers and demand for some of these services:

- 11 • Verizon NJ confidential response to RC-VNJ-25 (by wire center, not disaggregated
12 by CLEC);
- 13 • Verizon NJ response to RC-VNJ-26(a) (based on the E911 database, shows facilities-
14 based entry, but does not show the information separately for residence and business
15 customers). We provide analyses of these tables in our testimony and incorporate the
16 voluminous response by reference as Confidential Exhibit SMB-C-22 to our
17 testimony.
- 18 • Verizon's confidential response to RC-VNJ-26 (parts b through f): This response,
19 which we incorporate by reference as Confidential Exhibit SMB-C-23 to our
20 testimony because it is voluminous, includes three parts (corresponding with data for
21 September 2011, December 2010, and December 2009), each of which comprises
22 128 pages, and which provides, separately for each of Verizon NJ's wire centers, the

1 following quantities separately by CLEC (with the CLECs' identity "masked"):⁹⁶

- 2 o Residential resale;
- 3 o Business resale with public access lines;
- 4 o Residential Wholesale Advantage;
- 5 o Business Wholesale Advantage with public access lines; and
- 6 o UNE loops and EELs.

7 Although the customer class (i.e., residence or business), is discernible for the
8 first four categories, Verizon NJ has no way of knowing whether the loops and
9 EELs are ultimately used by CLECs to provide retail service to residential or
10 business customers.

- 11 • Data on win overs and win backs, and Form 477 data.

12 **Q: Did you also review data provided by CenturyLink?**

13 **A:** Yes. We discuss the data below.

14 **Rivals' entry in Verizon NJ's markets.**

15 **Q: Did you examine data regarding facilities-based entry in local markets in Verizon**
16 **NJ's territory?**

17 **A:** Yes. We examined Verizon NJ's response to RC-VNJ-26-a (incorporated by reference
18 as Confidential Exhibit SMB-22), which is based on E-911 listings in the database that

⁹⁶ / Verizon NJ has "masked" the identity of each of the CLECs by assigning them unique numbers. We assume throughout our testimony that the number that Verizon NJ has assigned to a CLEC is consistent across data responses. In other words, the hypothetical number "432" would refer to the same CLEC regardless of the data response. By contrast, we believe that CenturyLink's use of letters to disguise the CLECs' identities does not carry over from one data response to another data response.

1 Verizon NJ maintains for wire centers it serves. Table C-9 summarizes information for
2 each CLEC that serves one or more wire centers using facilities-based entry in Verizon
3 NJ's territory and includes residential and business lines.
4

1 Exhibits SMB-C-19 and SMB-C-20), it is likely that <<<BEGIN CONFIDENTIAL

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED] END CONFIDENTIAL>>> Without having

9 access to information about the actual identities of the CLECs, we are unable to analyze
10 relevant aspects of their operations (e.g., annual reports, technology, marketing, web sites,
11 tariffs, etc.) in order to provide context for our analysis of the wholesale data that Verizon NJ
12 has provided.

13 **Q: Earlier in your testimony, you describe the public data that the FCC reports. How do**
14 **the public data mesh with the proprietary data that Verizon NJ provided regarding**
15 **facilities-based entry?**

16 **A:** They are inconsistent. As Table 5 above shows, the FCC reports that, as of year-end 2010,
17 there were 339,000 CLEC-owned lines and 1,519,000 VoIP lines in throughout the state
18 (therefore, including Verizon NJ and CenturyLink territory). This is different from the
19 proprietary data shown in Table C-9, above. We are not able to explain the seeming
20 discrepancy between the proprietary data submitted in this proceeding and the data that the
21 FCC reports.

1 **Q: Have you also analyzed competitors' entry using Verizon NJ's wholesale facilities?**

2 A: Yes. The data demonstrate that, not surprisingly, the level of CLECs' presence varies by
3 geographic market.⁹⁷

4 **Q: Please describe the wholesale data that Verizon NJ provided.**

5 A: Verizon NJ provided data on residential resale, business resale, residential Wholesale
6 Advantage, business Wholesale Advantage, and loops and "EELs."

7 **Q: Please describe these three modes of wholesale-based entry.**

8 A: These modes include the following:

- 9 • *Resale* entails competitors simply reselling Verizon NJ's retail services.
- 10 • *Wholesale advantage* has replaced what Verizon NJ previously offered as "UNE-P"
11 (unbundled network element platform"). Competition based on Wholesale
12 Advantage has declined substantially in the wake of the *Triennial Review Remand*
13 *Order* issued by the FCC.⁹⁸ Whereas the rates for UNE-P had been based on total
14 element long run incremental cost, for Wholesale Advantage, the rates as well as the
15 terms and conditions (e.g., installation and repair intervals) are subject to negotiation
16 between the ILEC and its rivals. However, "negotiation" between the ILEC, which
17 controls the facilities and which has no compelling economic incentive to facilitate
18 its rivals' entry, is clearly biased in favor of the incumbent. CLECs' access to
19 "platforms" of the ILECs' network facilities, which had been their primary mode of

⁹⁷ / See Verizon NJ's confidential responses to RC-VNJ-26(a) and RC-VNJ-26 (b-e), incorporated by reference as Confidential Exhibit SMB-C-22 and Confidential Exhibit SMB-C-23.

⁹⁸ / *Unbundled Access to Network Elements; Review of the Section 251 Unbundling Obligations of Incumbent Local*

1 entry into residential markets, was seriously weakened due to the expiration of
2 regulated UNE-P access in March 2006. Verizon NJ replaced UNE-P with
3 Wholesale Advantage on March 11, 2006.⁹⁹

- 4 • *UNE loops and EELs* are typically used to serve larger business customers, because
5 competitors must deploy their own switches in order to serve customers using UNE
6 loops and EELs, and the cost of so doing is typically only justified where competitors
7 anticipate being able to serve large enterprise customers. Therefore, the Board
8 should not rely on the presence of UNE loops as evidence of residential competition.

9 If, contrary to our recommendation, the Board wishes to rely on this mode of entry
10 as evidence of competition in the residential market, it should first issue discovery to
11 each and every CLEC that uses the ILECs' loops and EELs and require them to
12 specify separately the quantities of residential and business retail lines that they
13 serve, separately by wire center, using Verizon NJ's loops and EELs.¹⁰⁰

14 **Q: Please provide a summary of the rivals' service to residential and business customers**
15 **based on Verizon NJ's wholesale facilities.**

16 **A: Table C-10 below summarizes data for 2009 through 2011, and provides totals separately for**
17 **residential resale; business resale; residential Wholesale Advantage; business Wholesale**

Exchange Carriers, FCC WC Docket No. 04-313; CC Docket No. 01-338, *Order on Remand*, Rel. February 4, 2005.

⁹⁹ / Reply Testimony of Susan M. Baldwin, NJ BPU Docket No. TX007110873, at 29, citing Verizon NJ response to RC-VNJ-59.

¹⁰⁰ / Verizon NJ is aware of the CLECs' identities (because it renders bills to them for leasing Verizon NJ's facilities) and, therefore, could provide the Board with a list of the CLECs that rely on Verizon NJ's wholesale facilities. *See*, by way of example, the detailed analyses of CLECs' presence, modes of entry, and customers served (residence or business), in NJ BPU Docket No. TO03090705 (regarding "impairment"). In the "impairment" investigation, the Board

1 Advantage; and loops and EELs.

2

3

Table C-10

4

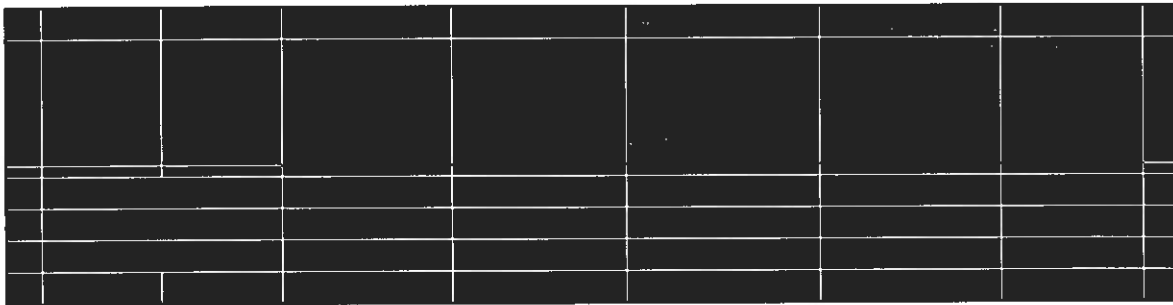
CLEC Lines Served Based on Verizon NJ's Wholesale Facilities¹⁰¹

5

Residential and Business Customers, 2009-2011

6

<<<BEGIN CONFIDENTIAL



7

8

END CONFIDENTIAL>>> Table C-10 above shows that lines served by competitors in

9

the residential market, using Verizon NJ's wholesale facilities, has **<<<BEGIN**

10

CONFIDENTIAL



11

END CONFIDENTIAL>>>.

12

Q: How much weight should the Board afford to lines served by a CLEC based on the use of resale and Wholesale Advantage?

13

14

A: We recommend that the Board afford minimal weight to the CLECs that rely on the incumbents in order to provide retail service to consumers. Those CLECs that depend on Verizon NJ's facilities in order to compete are not providing the same level of competition as do facilities-based competitors.

15

16

17

obtained information directly from CLECs about their retail customers, which enabled the Board to assess more comprehensively residential and business local markets.

1 **CLECs serving Verizon NJ's residential local markets.**

2 **Q: Recognizing the limitations of competition that is based on the use of an incumbent**
3 **carrier's facilities, have you nonetheless examined CLEC residential service in Verizon**
4 **NJ's markets based on the use of Verizon wholesale facilities?**

5 **A: Yes, Table C-11, below identifies each CLEC (by CLEC "number") that offers service to**
6 **households using either residential resale or residential Wholesale Advantage. We have**
7 **flagged those CLECs that also use their own facilities to offer local service (either to**
8 **residence or business customers) with an asterisk. CLEC presence that is based on**
9 **residential resale <<<BEGIN CONFIDENTIAL [REDACTED] END CONFIDENTIAL>>>**

10 **and more than <<<BEGIN CONFIDENTIAL [REDACTED]**
11 **[REDACTED]**
12 **[REDACTED]. END**

13 **CONFIDENTIAL>>>** The consequence of Verizon NJ masking the CLECs' identities is
14 that we (and the Board) are unable to analyze further the specific offerings of the CLECs that
15 appear in Table C-11 and also are unable to analyze other attributes of the CLECs (such as
16 their size, financial resources, tariffed offerings, marketing, etc.). For these various reasons,
17 in our view, the Board should afford little weight to these data as evidence of sufficient
18 competition in residential local markets.

¹⁰¹ / Confidential Verizon NJ response to RC-VNJ-26. Table excludes Verizon affiliates and MCI.

1
2
3
4

Table C-11

CLEC Presence in Residential Local Markets in Verizon NJ's Territory¹⁰²
Based on Verizon NJ's Wholesale Facilities, ranked by CLEC "number"

¹⁰² / Verizon NJ confidential response to RC-26 (a-f); * indicates that the CLEC also provides facilities-based service, possibly to residential customers. Data correspond with September 2011 data.

Testimony of Susan M. Baldwin and Sarah M. Bosley
NJ BPU Docket No. TX11090570

1
2
3

<<<BEGINCONFIDENTIAL

1 **Based on Verizon NJ's Wholesale Facilities, ranked by scale of CLEC)**

2 <<<**BEGIN CONFIDENTIAL**

3

service, possibly to residential customers. Data correspond with September 2011.

1

2 **END CONFIDENTIAL>>>**

3 **Q: Have you examined CLEC residential lines, using wholesale facilities, disaggregated by**
4 **wire center?**

5 **A: Yes. Confidential Exhibit SMB-C-24 summarizes our analysis of data at the wire center**
6 **level for residential customers. However, as we discuss above <<<BEGIN**

7 **CONFIDENTIAL** [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED] **END CONFIDENTIAL>>>**

13 **Migration among carriers.**

14 **Q: Did you examine other evidence that demonstrates that Verizon NJ continues to**
15 **dominate the local exchange market?**

16 **A: Yes. We examined data related to win overs and win backs. The term “win overs” refers to**
17 **instances where customers who first were served by CLECs migrate to Verizon NJ. “Win**
18 **backs” refer to instances where customers who initially were served by Verizon NJ, but**
19 **switched to a CLEC, are then recaptured by Verizon NJ.**

20 **Q: Please summarize the data that you reviewed regarding win overs and win backs.**

21 **A: Table C-13 below, which includes residential and business lines, shows that Verizon NJ was**

1 able to win over and win back customers throughout the most recent three-year period.

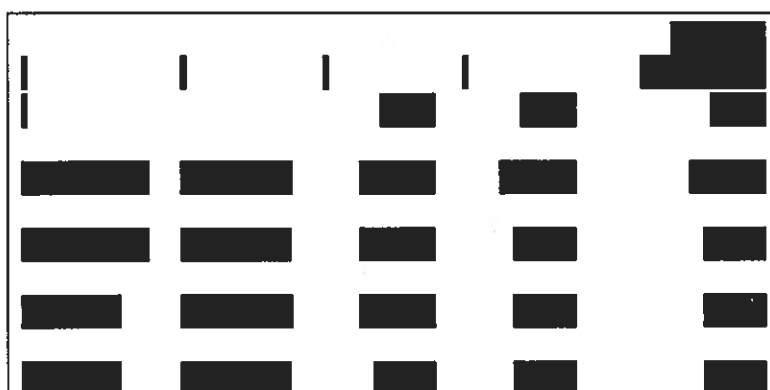
2 **Table C-13**

3 **Win Backs and Win Overs: 2009-2011¹⁰⁴**

4 **Verizon NJ**

5 <<<BEGIN CONFIDENTIAL

6



[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

7
8 **END CONFIDENTIAL>>>**

9 **Q: What do you conclude from this data?**

10 **A:** Verizon NJ's success at win overs and win backs is further evidence of its market power
11 and the relative weakness of the New Jersey CLECs.

12 **Q: Earlier, you referred to Form 477 data. Please summarize some of the salient**
13 **information contained in the Form 477 that Verizon NJ submitted most recently to the**
14 **FCC.**

15 **A:** According to Verizon NJ's most recent Form 477: <<<BEGIN CONFIDENTIAL

16
17

¹⁰⁴ / Verizon NJ confidential response to RC-VNJ-12.

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]

21 **END CONFIDENTIAL>>>**¹⁰⁵

22 **Analysis of CenturyLink's rivals.**

23 **Q: Have you reviewed E911 listings for CLECs in CenturyLink's operating territory?**

24 **A:** No. Rate Counsel asked for CLEC E911 listings by wire center, but CenturyLink responded
25 by stating that it did not collect the data by wire center and also did not provide any
26 aggregate E911 listings.¹⁰⁶

¹⁰⁵ / Verizon confidential response to RC-VNJ-48(f) (Form 477 Submission for Verizon New Jersey, Inc. Data as of June 30, 2011). The entirety of Verizon NJ's response to RC-VNJ-48 is incorporated by reference as Confidential Exhibit SMB-C-5.

¹⁰⁶ / CenturyLink response to RC-CTL-25.

1 **Q: Did you review data included in CenturyLink's Form 477s?**

2 A: Yes. According to its Form 477, CenturyLink had a total of: <<<BEGIN

3 **CONFIDENTIAL**

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 **END CONFIDENTIAL>>>¹⁰⁷**

15 **Q: Have you then been able to analyze facilities-based entry in CenturyLink's territory?**

16 A: No.

17 **Q: What did you determine about resale-based residential competition in CenturyLink's**
18 **territory?**

19 A: According to CenturyLink's response to RC-CTL-18, CLECs in CenturyLink's operating

¹⁰⁷ / Form 477s provided in response to RC-CTL-47 (see attachments), as of June 30, 2011. The entirety of CenturyLink's response to RC-CTL-47 is incorporated by reference as Confidential Exhibit SMB-C-6.

1 territory provided no residential lines through the use of resale in 2010 and in 2011.¹⁰⁸ In
2 response to RC-CTL-17, CenturyLink indicates that six CLECs provided a total of 1,331
3 resale lines in 2011 (presumably all business lines given its answer in RC-CTL-18). The
4 wire center-specific data indicate that <<<BEGIN CONFIDENTIAL [REDACTED]
5 [REDACTED] END
6 CONFIDENTIAL>>>.¹⁰⁹ Table C-14 summarizes residential resale between 2007 and
7 2011 in CenturyLink's territory.

8 **Table C-14**

9 **Residential Resale in CenturyLink's Territory¹¹⁰**

10 <<<BEGIN CONFIDENTIAL

11
12
13 **END CONFIDENTIAL>>>**

14 **Q: What did you determine regarding competition that is based on CLECs' use of UNE-P**
15 **and UNE-L?**

16 **A: A total of three CLECs provided 773 lines with UNE-P in CenturyLink's territory in 2011.¹¹¹**
17 **CenturyLink does not track residential and business lines separately for UNE-P.¹¹² One**

¹⁰⁸ / CenturyLink response to RC-CTL-18.

¹⁰⁹ / CenturyLink confidential response to RC-CTL-24. CenturyLink confidential response to RC-CTL-24 provides resale, UNE-P and UNE-L lines by wire center and by "masked" CLEC. Confidential Exhibit SMB-C-25 summarizes CenturyLink retail lines and CLECs' retail lines by mode of wholesale-based services and by wire center.

¹¹⁰ / CenturyLink confidential response to RC-CTL-18.

¹¹¹ / CenturyLink response to RC-CTL-20.

¹¹² / CenturyLink response to RC-CTL-21.

1 CLEC provided 4 lines using UNE-L in 2011.¹¹³ The wire center-specific data indicate that

2 <<<BEGIN CONFIDENTIAL [REDACTED]
3 [REDACTED] END CONFIDENTIAL>>>.¹¹⁴

4 Confidential Exhibit SMB-C-25 summarizes, by wire center, CenturyLink retail lines and
5 CLEC lines using CenturyLink wholesale facilities, by mode of entry; it shows that

6 <<<BEGIN CONFIDENTIAL [REDACTED]
7 END CONFIDENTIAL>>> in CenturyLink's markets.

8 **Q: Are you aware of evidence that CenturyLink researches its competitive position?**

9 **A:** No. CenturyLink's responses certainly do not indicate that the company does much research
10 on its competitive position: CenturyLink stated that it does not have any studies or reports
11 regarding retail line loss in New Jersey¹¹⁵ and that it does not use Bill Harvesting data.¹¹⁶

12 Rate Counsel sought any surveys CenturyLink undertook regarding mass market competition
13 or consumer demand in the past five years, and CenturyLink stated that it had not prepared
14 any.¹¹⁷ CenturyLink stated, in response to RC-CTL-34, that it has not prepared or had
15 prepared on its behalf any analyses, studies or surveys regarding consumer elasticity of
16 demand in New Jersey. With respect to elasticity, CenturyLink also stated that it had not:

17 . . . conducted elasticity of demand studies for rate regulated services in New

¹¹³ / CenturyLink response to RC-CTL-22

¹¹⁴ / CenturyLink confidential response to RC-CTL-24.

¹¹⁵ / CenturyLink response to RC-CTL-13.

¹¹⁶ / CenturyLink response to RC-CTL-9.

¹¹⁷ / CenturyLink response to RC-CTL-30. See, also, CenturyLink response to RC-CTL-53 stating that it had not prepared any studies on cord-cutting or the future of the public switched telephone network.

1 Jersey in the past five years. Unlike other competitors, CenturyLink's rates
2 had not changed for many years and continue to remain subject to regulatory
3 requirements as a result of the ILEC Phase I proceeding such that "elasticity
4 of demand" studies continue to have no useful purpose and are contrary to
5 the factual and historical realities as existing.¹¹⁸
6

7 CenturyLink responded to requests for business plans regarding its landline, consumer, and
8 voice segments by objecting that, in its view, the information is outside the scope of the
9 proceeding.¹¹⁹

10 **Q: Did you examine CenturyLink win over and win back data for residential and business**
11 **customers?**

12 **A:** CenturyLink indicated that it does not track business win backs in the manner in which we
13 asked for the data but indicated that it would supplement its response if the data becomes
14 available. It did provide data on residential win back orders. CenturyLink reports
15 <<<BEGIN CONFIDENTIAL [REDACTED] END CONFIDENTIAL>>> win backs,
16 respectively, for 2008, 2009, and 2010.¹²⁰

17 **Q: Did you review local number portability data for CenturyLink?**

18 **A:** Yes. CenturyLink provided local number portability data in response to RC-CTL-56. Also,
19 CenturyLink estimated that over the past four years approximately <<<BEGIN
20 CONFIDENTIAL [REDACTED] END CONFIDENTIAL>>> business local exchange customers
21 that disconnected their CenturyLink service migrated to wireless service and that

¹¹⁸ / CenturyLink response to RC-CTL-116.

¹¹⁹ / CenturyLink response to RC-CTL-55. See also Verizon NJ response to RC-VNJ-56.

¹²⁰ / CenturyLink confidential response to RC-CTL-12.

1 approximately <<<BEGIN CONFIDENTIAL [REDACTED] END CONFIDENTIAL>>> business
2 local exchange customers disconnected service and migrated to CLECs.¹²¹ In response to
3 RC-CTL-114a, which we have reproduced as Confidential Exhibit SMB-C-26, CenturyLink
4 provided the number of customer ports by wire center and by the carrier to which the
5 customer ported her telephone number. This data is for total ports (i.e. both residential and
6 business together). The top three companies to which numbers previously assigned to
7 CenturyLink were ported over the last year (from November 2010 through October 2011)
8 were <<<BEGIN CONFIDENTIAL [REDACTED]
9 [REDACTED]. END
10 CONFIDENTIAL>>>¹²²

11 **Intermodal alternatives do not discipline the rates, terms and conditions of residential dial**
12 **tone services provided by the ILECs.**

13
14 **Q: Wouldn't you agree that intermodal providers offer services in the New Jersey**
15 **telecommunications markets over various platforms?**

16 **A:** There certainly are many different types of telecommunications services available.
17 However, the real question is whether or not they constrain either the rates or quality of basic
18 service offered by the ILECs. It is important that the Board not assume that availability of a
19 variety of offerings is equivalent to effective competition. For the reasons explained below,
20 it is clear that intermodal alternatives are not economic substitutes for basic local exchange
21 service.

¹²¹ / CenturyLink confidential response to RC-CTL-60:

¹²² / Confidential Exhibit SMB-C-26 reproduces CenturyLink's confidential response to RC-CTL-114.

1 **Q: What is an economic substitute?**

2 A: As stated above, an economic substitute is generally considered a second product that a
3 consumer is willing and able to buy instead of a first product, in response to a small but
4 significant change in price of the first product,¹²³ and the most valuable and unbiased
5 evidence about consumers' preferences are consumers' actual purchasing decisions.¹²⁴ For
6 various reasons, discussed in this testimony, consumers of standalone basic exchange service
7 do not consider wireless, facilities-based VoIP, and "over-the-top" VoIP services as
8 substitutes, and thus these intermodal alternatives do not constrain the ILECs' prices and
9 service quality for basic voice grade service.

10 **Q: Please explain.**

11 A: Currently, the competitive threat faced by the telephone companies is in the provisions of
12 *bundles* of services (often referred to as the "triple play", *i.e.*, phone, video, and Internet

¹²³ / In the context of service quality, a substitute can also be considered a product that a consumer would buy instead of local wireline phone service from the incumbent if service quality declined. The relevant question is whether a consumer has an alternative product s/he can buy if the price of the first product rises, service quality declines, or for any other reason, the consumer is unsatisfied. This possibility that the business may lose the business of a consumer is theoretically the manner in which the market disciplines the actions of the business (*i.e.*, the business cannot let service quality decline or raise prices too much because the consumer will simply buy services from another business). In its order approving Verizon Communications Inc.'s acquisition of MCI, Inc. ("MCI"), the FCC, stated, that in considering consumer substitution possibilities: "we consider indicia of demand substitution between possible services, including: (1) the attributes and relative prices of possible competing services; (2) evidence that consumers view the possible competing services similarly, and have shifted or have considered shifting purchases between these services in response to relative changes in price or other competitive variables; (3) evidence that service providers consider the prospect of buyer substitution between services in response to relative changes in price or other competitive variables; and (4) the costs a consumer could incur to substitute between traditional services and services provided on an alternative platform." FCC *Verizon/MCI Merger Order*, footnote 251, citing *DOJ/FTC Guidelines* at § 1.11.

¹²⁴ / Consumers, through their purchasing decisions, seek to maximize their utility, and in so doing show their "preferences." See generally, Mas-Colell, Andreu, Michael D. Whinston and Jerry R. Green, *Microeconomic Theory* (New York: Oxford University Press, 1995).

1 access or “quadruple play,” *i.e.*, phone, video, Internet access, and wireless service).¹²⁵ As
2 stated earlier, approximately 90% of residential VoIP is provided as part of a bundle; those
3 consumers do not view VoIP as a substitute for standalone basic local exchange service.¹²⁶

4 **Q: Nonetheless, the data that you summarize above and in your exhibits show that cable**
5 **companies have successfully entered residential telecommunication markets in Verizon**
6 **NJ’s and CenturyLink’s territories. Why shouldn’t the Board rely on cable companies’**
7 **presence to constrain ILECs’ rates for basic local exchange service?**

8 **A:** As just explained, the bundles that are cable companies’ primary service offering are not
9 economic substitutes for standalone basic service. For example, Cablevision’s website
10 indicates that a subscriber cannot buy Cablevision’s Optimum Voice product without either
11 subscribing to Cablevision’s Optimum Online product or its “Triple Play” offering that
12 includes iO digital cable, optimum online, and optimum voice products.¹²⁷ With the “Triple
13 Play” each service is (nominally¹²⁸) \$29.95 a month for the first year.¹²⁹ Similarly, Comcast
14 offers its Voice Unlimited in a package with Cable or Internet services¹³⁰ at the (nominal)

¹²⁵ / The “bundles” to which we refer here include voice services (local, toll, long distance) sold in conjunction with video and Internet access services.

¹²⁶ / See Table 8, above, which shows that of the 1,310,000 non-incumbent residential VoIP lines, only 147,000 VoIP customers subscribe to voice-only service whereas 1,163,000 residential customers subscribe to VoIP as part of a bundle.

¹²⁷ / See <http://www.optimum.com/home-phone-service/pricing.jsp> (accessed February 14, 2012).

¹²⁸ / We say “nominally” because no customer can actually purchase any of the three components at \$29.95 – only the 3-service bundle for just under \$100.

¹²⁹ / http://www.optimum.com/order/triple_play.jsp (accessed February 14, 2012).

¹³⁰ / The details and restrictions read: “Offer ends 3/21/12, and is limited to new residential customers. Not available in all areas. Offer limited to XFINITY Unlimited service and *requires subscription to either XFINITY TV or Internet service at regular rates. Comcast’s current monthly service charge for XFINITY Unlimited ranges from \$39.95 to*

1 introductory price of \$29.95, but the price for the voice-only service (itself a bundle of local
2 and long distance calling) is \$44.95.¹³¹ Comcast also offers a “Local with More” product
3 that offers unlimited local calling and 5 cent per minute toll and long distance calling for
4 \$34.99 per month.¹³² Time Warner Cable has similar pricing, offering digital phone for
5 \$39.99 per month¹³³ if a subscriber has no other services or even just analog cable service.
6 Thus, in cases where a customer can purchase voice service “à la carte,” the price is \$39.99
7 for subscribers in Time Warner Cable service areas and \$44.95 in Comcast areas. This is a
8 much higher price than a subscriber faces when buying basic local exchange service from
9 Verizon for \$16.45 per month or from CenturyLink for \$15.45. Even if an ILEC’s basic
10 local service customer chose to subscribe to a discretionary feature, the monthly rate would

\$44.95, and may vary depending on your area and other Comcast services (if any) received. Equipment, installation, taxes, the Regulatory Recovery Fee and other applicable charges (e.g., per-call, toll and international rates) extra. \$29.95 activation fee may apply. May not be combined with other offers. Unlimited calling applies to direct-dialed calls from home to locations in the U.S., Canada, Puerto Rico and certain other U.S. territories. Service (included 911/emergency services) may not function after an extended power outage. SmartZone® Communications Center requires subscription to XFINITY Internet. Call clarity claim based on August 2010 analysis of traditional phone service by Tektronix. Transfers of existing telephone number not always available. 30-Day Money-Back Guarantee applies to one month’s recurring service charge and standard installation up to \$500. Call for restrictions and complete details or visit Comcast.com. Some exceptions apply. Comcast © 2012. All rights reserved.P>.” (Emphasis added).

¹³¹ / Pricing for Atlantic City/08401 zip code online on February 14, 2012, at: <https://www.comcast.com/shop/buyflow2/products.csp?inflow=1>.

¹³² / Details of this plan include: “Limited to residential customers. Only available in participating Comcast systems in wired and serviceable locations. Service, features and pricing are subject to change. Equipment and installation charges, taxes, Regulatory Recovery Fee and other charges (e.g., toll and international calling) extra. Service is subject to Comcast standard terms and conditions of service. XFINITY Digital Voice® Local with More® pricing applies to direct-dialed local calls from home. Additional charges apply for calls beyond coverage area. *Separate long distance carrier connections and dial around calling not available.* Activation fee may apply to XFINITY Digital Voice®. XFINITY Digital Voice service (including 911/emergency services) may not function after an extended power outage. Certain customer premises equipment may not be compatible with Digital Voice services. SmartZone® Communications Center requires subscription to XFINITY Internet. Call clarity claim based on August 2010 analysis of traditional phone service by Tektronix. Transfers of existing telephone number not always available. 30-Day Money-Back Guarantee applies to one month’s recurring charges and standard installation up to \$500. Call for restrictions and complete details or visit Comcast.com. Some exceptions apply. Comcast © 2012. All rights reserved.” (Emphasis added)

1 still be significantly less than the cable-based voice alternative. Clearly, even a significant,
2 non-transitory, price increase for customers of Verizon or CenturyLink’s voice services will
3 not lead them to switch to cable offerings. This confirms that the ILEC local exchange
4 service and cable VoIP are not competing in the same product market.

5 **A duopoly does not represent effective competition.**

6 **Q: When cable companies and ILECs do offer comparable services – their high-priced**
7 **multi-service bundles – does that necessarily result in effective competition?**

8 A: No. Even those customers who want triple play offerings confront a market structure that
9 can only be characterized as a duopoly, not effective competition. In a duopoly, the
10 providers (jointly) have the ability to raise prices without attracting new entry that will
11 restore prices to a competitive equilibrium.

12 **Q: Have others expressed concern about the emerging cable/telco duopoly?**

13 A: Yes. For example, then-Commissioner Copps stated in December 2010:

14 Individual gatekeepers may change over time—tomorrow’s might not be
15 today’s—but somehow the urge to be the keeper of the keys seems always to
16 survive through generations of technology change. So it happened, as the
17 doors were opened to the seemingly limitless prospects of the new media age,
18 that public policy-makers once again became the willing accomplices of
19 special interests. Indeed, the FCC spent the first eight years of the new
20 century removing broadband from any meaningful public policy oversight,
21 deregulating the telecom/cable duopoly, and blessing evermore competition-
22 killing consolidations that narrowed consumer choice and inflated consumer
23 bills.¹³⁴

¹³³ / <https://order.timewarnercable.com/OfferList.aspx>, accessed February 23, 2012.

¹³⁴ / “Getting Media Right: A Call to Action,” Commissioner Michael J. Copps, Columbia University School of Journalism, New York City, December 2, 2010, at 2.

1 **Q: What inhibits customers from simply switching back and forth between ILEC and**
2 **cable company service bundles?**

3 A: Even those customers who are willing and able to pay for bundled packages of voice, data,
4 and/or video services confront high transaction costs to migrate from one supplier to another.
5 Transaction costs include the time and financial outlay for service installation, equipment,
6 and an e-mail address change. Moreover, telecommunications service providers use various
7 tactics to lock-in customers. Although some of these tactics may offer short-term consumer
8 benefits, they also impose transaction costs if customers later wish to change service
9 providers.

10 **Q: Please describe these transaction costs.**

11 A: Some of the tactics that deter migration include:

- 12 • offering discounts for one-year contracts, instead of month-to-month agreements,
- 13 • bundling necessary equipment with a long-term commitment,
- 14 • imposing early termination fees, and
- 15 • features such as an e-mail address that is non-portable.

16
17 In addition to the business goal of seeking to attract customers in the high revenue segment
18 of the market, the desire to lower customer churn is one of the industry's key motivating
19 reasons for marketing bundled offerings to customers.

20 **Q: Why is a duopoly insufficient to protect consumers' interests?**

21 A: A duopoly, which is an extreme form of an oligopoly, is only one step away from a
22 monopoly. In an oligopoly, a number of firms compete in a market, and the firms' behavior,

1 cost functions, and strategic interactions, as well as consumers' demand functions, affect the
2 market structure. One textbook describes the behavior of firms in an oligopoly as follows:

3 Any realistic theory of oligopoly must take as a point of departure the fact
4 that when market concentration is high, the pricing decisions of sellers are
5 interdependent, and the firms involved can scarcely avoid recognizing their
6 mutual interdependence. If they are at all perceptive, the managers of
7 oligopolistic firms will recognize too that profits will be higher when
8 cooperative policies are pursued than when each firm looks only after its own
9 narrow self-interest. As a result, we should expect oligopolistic industries to
10 exhibit a tendency toward the maximization of collective profits,
11 approximating the pricing behavior associated with pure monopoly.¹³⁵
12

13 **Overall, intermodal alternatives to ILEC local exchange service are not resulting in effective**
14 **competition.**

15
16 **Q: Do products need to be identical to be substitutes, and do all consumers need to view all**
17 **products as substitutes in order for intermodal services to be considered economic**
18 **substitutes?**

19 **A:** Certainly not. We are not arguing that each intermodal service must be identical to Verizon
20 NJ's or CenturyLink's local exchange service. However, there must be evidence that
21 intermodal services provide effective competition, including a demonstration, for instance,
22 that there is sufficient cross-elasticity of demand with households' primary lines to justify
23 considering intermodal services as acceptable substitutes for wireline service.

24 **Q: Has the Board previously examined intermodal competition?**

25 **A:** Yes. The Board undertook its own analysis of the state of competition in New Jersey as part
26 of its investigation of the proposed merger Verizon/MCI merger. In its Order approving the

^{135/} F. M. Scherer, *Industrial Market Structure and Economic Performance*, Rand McNally & Company, (1970), at 157; *see also* discussion at 131 through 157. *Also see* Mas-Colell, Andreu, Michael D. Whinston and Jerry R. Green, *Microeconomic Theory* (New York: Oxford University Press, 1995), at 387 through 427.

1 merger,¹³⁶ the Board found that intermodal technologies do not currently serve as an
2 economic substitute for wireline services in New Jersey’s local market for either enterprise
3 or mass market customers.¹³⁷ The Board acknowledged the Petitioners’ position that price
4 constraining competition takes place at the margins, and thus intermodal competition need
5 not reach all consumers, but the Board faulted the Petitioners for failing to “actually opine as
6 to how large a percentage of ‘early adopters’ is required for pricing discipline to occur.”¹³⁸
7 In reviewing the evidence, the Board made the following conclusions with respect to the
8 mass market:

9 In the case of the aforementioned technologies except wireless, market
10 penetration rates are very low. Thus, we are not willing to accept on this
11 record that intermodal technologies such as VoIP, WiFi, WiMAX and cable
12 telephony currently constrain Verizon’s wireline pricing to a meaningful
13 degree.¹³⁹
14

15 The Board also found the rate at which consumers were “cutting the cord” was insufficient to
16 constrain Verizon’s wireline pricing. Though wireless penetration is certainly larger than the
17 penetration of other technologies mentioned above, the Board agreed with Rate Counsel in
18 finding that “wireless service is currently viewed by the majority of its users as a supplement
19 to wireline service rather than a substitute.”¹⁴⁰

^{136/} *In the Matter of the Joint Petition of Verizon Communications Inc. and MCI, Inc. for Approval of Merger*, New Jersey Board of Public Utilities Docket No. TM05030189, *Order of Approval*, April 12, 2006 (“NJ BPU Verizon/MCI Merger Order”).

^{137/} *Id.*, at 33-35, 36.

^{138/} *Id.*, at 36.

^{139/} *Id.*

^{140/} *Id.*

1 **Q: The Board Order that you are quoting was issued six years ago. Isn't it now irrelevant**
2 **because it is so dated?**

3 A: No. Statistics continue to bear out the fact that most consumers continue to subscribe to
4 wireline service. The major erosion of ILECs' residential lines has occurred as a result of
5 cable companies' successful marketing of triple play offerings, which, for the reasons we
6 discuss above, do not represent economic substitutes for basic local service.

7 **Q: What did the Board find with respect to intermodal competition for business services?**

8 A: With respect to the small businesses, the Board found that none of the intermodal
9 technologies put forth by the Petitioners as substitutes for enterprise wireline services
10 sufficiently disciplined Verizon NJ's behavior in the market. The Board concluded that the
11 various technologies identified by Verizon and MCI are either not true economic substitutes
12 (e.g., wireless and VoIP) or have not been adopted by enough subscribers to provide price
13 constraining competition (e.g., cable, WiFi).¹⁴¹ The Board stated:

14 . . . acknowledging the increasing presence of such technologies is not the
15 same as concluding that they sufficiently mitigate competitive harms created
16 by the merger by constraining ILEC wireline pricing. In fact, we conclude
17 that in New Jersey such alternative technologies have not yet had this effect
18 in the business market.¹⁴²

19
20 The data in this proceeding similarly fail to show that a sufficient number of "marginal"
21 consumers are choosing (or have the option to choose) alternative providers to provide
22 competitive pressure on ILECs' service quality and pricing for basic local exchange service.

¹⁴¹/ *NJ BPU Verizon/MCI Merger Order*, at 33-35.

¹⁴²/ *Id.*, at 35.

1 **The FCC’s denial of Verizon’s petitions for forbearance in six Metropolitan Statistical Areas**
2 **includes analyses and findings that are germane to this proceeding.**
3

4 **Q: Has the FCC also made findings about whether there is price-constraining competition**
5 **for local exchange service, even in many more urban markets?**

6 A: Yes. Under federal law, the FCC is required to forbear from regulation under certain
7 conditions set forth in Section 10 of the Telecommunications Act of 1996.¹⁴³ Several
8 years ago, Verizon sought forbearance from rules requiring the company to offer certain
9 unbundled network elements to competitors in six Metropolitan Statistical Areas
10 (“MSA”), including the Philadelphia MSA, which includes portions of New Jersey, but
11 the FCC rejected the Verizon’s request.¹⁴⁴ Much of the reasoning and market analysis
12 in the FCC’s order is directly relevant to the Board’s assessment of relevant markets in
13 New Jersey. Among the reasons for the FCC’s findings were:

- “in serving mass market customers many of these intramodal competitors rely on access to Verizon’s last-mile network facilities,

¹⁴³ / 47 U.S.C. § 160. Section 10 requires the FCC to determine, with respect to the particular forbearance request, whether “(1) enforcement of such regulation or provision is not necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with that telecommunications carrier or telecommunications service are just and reasonable and are not unjustly or unreasonably discriminatory; (2) enforcement of such regulation or provision is not necessary for the protection of consumers; and (3) forbearance from applying such provision or regulation is consistent with the public interest.” *Id.*, subsection (a). The FCC has observed that “section 10(a)’s mandate to forbear for a ‘telecommunications service, or class of . . . telecommunications service’ in any or some of a carrier’s ‘geographic markets’ closely parallels the Commission’s traditional approach under its dominance assessments to product markets and geographic markets, respectively.” *In the Matter of Petitions of the Verizon Telephone Companies for Forbearance Pursuant to 47 U.S.C. §160(c) in the Boston, New York, Philadelphia, Pittsburgh, Providence and Virginia Beach Metropolitan Statistical Areas*, FCC WC Docket No. 06-172, *Memorandum Opinion and Order*, FCC 07-212, released December 5, 2007 (“Verizon 6 MSA Forbearance Order”), at footnote 77.

¹⁴⁴ / *Verizon 6 MSA Forbearance Order*. Verizon sought forbearance from “the following dominant carrier regulations to the extent that they apply to its mass market interstate switched access services: tariffing requirements, price cap regulation, and dominant carrier requirements concerning the processes for acquiring lines, discontinuing services, assignment or transfers of control, and acquiring affiliations.” *Id.*, at para. 21. The mass market is defined as residential consumers and small business customers. *Id.*, at footnote 78.

1 including UNEs, and Verizon's other wholesale services in all 6
2 MSAs."¹⁴⁵

- 3
- 4 • Alleged "competitors" offering services not shown to be "close
5 substitutes."¹⁴⁶
 - 6
 - 7 • Persistence of a high market share by the ILEC¹⁴⁷
 - 8

9 **Q: Did FCC address particular types of competitive evidence that Verizon NJ has relied**
10 **on in past proceedings?**

11 A: Yes, the FCC rejected Verizon's reliance upon evidence of "line loss" to demonstrate a
12 competitive market,¹⁴⁸ and expressed concerns about the evidentiary reliability of its E911
13 data (as evidence of competitor lines).¹⁴⁹

14 **Q: What does the FCC conclude about enterprise competition?¹⁵⁰**

15 A: The FCC observed that cable operators focus on serving residential customers and play a
16 "comparatively limited role" in serving enterprise customers.¹⁵¹ Also, the FCC noted that

¹⁴⁵ / *Id.*, at para. 23.

¹⁴⁶ / *Id.*, at para. 23, notes omitted.

¹⁴⁷ / *Id.*, at para. 27, note omitted ("In particular, Verizon's market shares in the MSAs at issue [...] are sufficiently high to suggest that competition in these MSAs is not adequate to ensure that the 'charges, practices, classifications, or regulations . . . for [...] or in connection with that . . . telecommunications service are just and reasonable and are not unjustly or unreasonably discriminatory' absent the regulations at issue.")

¹⁴⁸ / *Id.*, at para. 32 ("the abandonment of a residential access line does not necessarily indicate capture of that customer by a competitor, but may indicate that the consumer converted a second line used for dial-up Internet access to an incumbent LEC broadband line for Internet access." *See, also, id.*, at para. 39.

¹⁴⁹ / *Id.*, at footnote 115. The FCC also rejects Verizon's use of fiber route maps and concludes that the maps have "little probative value." *Id.*, at para. 40. The FCC also rejects Verizon's use of list of lit buildings from the GeoResults Building Database noting that Verizon does not provide any comparative data for the number of buildings it serves and the percentage of all buildings that competitors serve "is extremely small on a relative basis." *Id.*, at para. 41.

¹⁵⁰ / The enterprise market is defined as medium-sized and large business customers. *Id.*, at footnote 78.

¹⁵¹ / *Id.*, at para. 37 and footnote 116 (For example, Comcast states that its cable networks are primarily in residential areas and to the extent small businesses are in the areas, Comcast does make its services, including voice to those entities

1 cable “coverage” in isolated wire centers did not necessarily provide “evidence of
2 ‘successful’ facilities-based competition.”¹⁵²

3 **Q: Did the FCC address competitors for enterprise customers other than cable operators?**

4 A: Yes. The FCC concluded that there is no evidence that competitors other than cable
5 competitors have deployed “extensive last-mile facilities for use in serving the enterprise
6 market” and that “much of the competition from competitive LECs for enterprise services in
7 these MSAs instead depends on access to Verizon’s own facilities, including UNEs.”¹⁵³

8 **Q: Haven’t competitive conditions changed since the time of the FCC’s 6 MSA
9 Forbearance Order?**

10 A: Although competitive conditions, of course, are not exactly the same, as demonstrated by the
11 data examined throughout our testimony, Verizon and CenturyLink still do not confront
12 sufficient competition to make deregulation in the public interest.

in the Boston, Pittsburgh and Philadelphia MSAs. Comcast Comments at 4. Comcast further states that commercial phone has not been a focus until 2006 and it “has not, to date, made any significant or sustained entry into the business market and enterprise markets.” *Id.* at 5. Both Charter and Verizon recognize that Charter’s network only passes in largely residential areas. Charter Reply at 4; Boston Petition at 18 n.25. Similarly, RCN, in the Boston, Philadelphia, and New York MSAs indicates that it provides [REDACTED]. Letter from Philip J. Macres, Counsel for RCN Telecom Services, Inc., to Marlene H. Dortch, Secretary, FCC, WC Docket No. 06-172, Exh. 2 at 1-3 (filed Oct. 9, 2007). While Time Warner Cable indicates that it has built out facilities enabling the provision of voice service to most households in the portions of the New York MSA in which it operates, Time Warner Cable explains that it is unable to reach most enterprise customers using its own last-mile facilities. Time Warner Cable Comments at 17.”)

¹⁵² / *Verizon Six MSA Forbearance Order*, at footnote 113 and paras. 36-37.

¹⁵³ / *Id.*, at para. 37. Noting that it has already granted some relief from unbundling obligations based on competitive triggers in the Triennial Review Remand Order the FCC states that it does not find that it would be in the public interest to grant “additional relief from UNE obligations based on that same competition.” *Id.* The FCC concludes that it is in the public interest to “maintain the balance struck by the Commission in the Triennial Review Remand Order.” *Id.*, at footnote 125.

1 **Q: Then you consider the findings and analysis underlying the FCC's denial of Verizon's**
2 **forbearance petitions to have continued relevance for the Board's current assessment**
3 **of competition and the need for regulation?**

4 A: Yes. The market analysis that led the FCC to deny Verizon forbearance from dominant
5 carrier regulation, from Section 251 unbundling obligations and *Computer III* requirements
6 is still relevant and compelling. Despite finding that there was some intermodal competition
7 (mainly in the form of cable competition for residential consumers),¹⁵⁴ the FCC concluded
8 that Verizon's market share was significant.¹⁵⁵ This continues to be true today. In 2006, the
9 FCC found that Verizon continued to possess exclusionary market power,¹⁵⁶ inasmuch as
10 what little facilities-based competition existed often relied upon Verizon's own facilities.¹⁵⁷
11 Again, even where intra- and intermodal competitors have gained ground, their dependence
12 of ILEC last- and middle-mile facilities continues to give Verizon (and CenturyLink)
13 significant market power.

14 **Business local exchange service markets lack effective competition.**

15 **Q: Have you reviewed supply, demand, and pricing data for business local exchange**
16 **service markets?**

17 A: Yes, and based on our review, we conclude that business local exchange service markets are
18 not effectively competitive.

¹⁵⁴ / See, e.g., *Verizon Six MSA Forbearance Order*, at footnote 116.

¹⁵⁵ / *Id.*, at para. 27. The actual market share calculations are considered proprietary.

¹⁵⁶ / *Id.*, at para. 45.

¹⁵⁷ / *Id.*, at para. 37.

1 **Q: Does Table C-9, above, which summarizes facilities-based entry in Verizon NJ's**
2 **market, provide compelling evidence of effectively competitive local business markets?**

3 A: No. As we discuss above, <<<BEGIN CONFIDENTIAL [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED].END CONFIDENTIAL>>> Furthermore, as the Rate Counsel

9 survey shows, the primary focus in the business market is on enterprise (i.e., large)
10 customers. Furthermore, without being able to determine the identity of the CLECs, we are
11 unable to analyze fully their position in local markets.

12 **Q: How much weight should the Board afford to CLEC entry into business local markets**
13 **that is based on the use of business resale, business Wholesale Advantage, and UNE**
14 **loops and EELs?**

15 A: We recommend that the Board afford minimal weight to the CLECs that rely on the
16 incumbents' facilities in order to provide retail service to business consumers. The
17 "negotiation" of rates, terms and conditions for CLECs' access to ILEC network elements is
18 tipped toward ILECs, who have little incentive to facilitate their rivals' entry into local
19 markets. Thus, CLECs' success hinges upon critical inputs over which they have minimal
20 control.

21 **Q: Recognizing the limitations of entry that is based on the use of an incumbent carrier's**

1 facilities, have you nonetheless examined entry in Verizon NJ's business local exchange
2 markets based on rivals' use of ILECs' wholesale facilities?

3 A: Yes, Table C-15, below identifies each CLEC (by CLEC "number") that offers service to
4 businesses using business resale, business Wholesale Advantage, or loops. We have flagged
5 those CLECs that also use their own facilities to offer local service (either to residence or
6 business customers) with an asterisk. Although at first glance <<<BEGIN

7 CONFIDENTIAL [REDACTED]

8 [REDACTED]
9 END CONFIDENTIAL>>>

10 Table C-15¹⁵⁸

11 CLEC Presence in Business Local Markets in Verizon NJ's Territory

12 <<<BEGINCONFIDENTIAL
13

¹⁵⁸ / Proprietary Verizon responses to RC-NVJ-26a-f.

Testimony of Susan M. Baldwin and Sarah M. Bosley
NJ BPU Docket No. TX11090570

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1 **Q: What else do you observe about wholesale-based competition in the business local**
2 **exchange service market?**

3 **A: Table C-16 below shows that <<<BEGIN CONFIDENTIAL** [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED] **END CONFIDENTIAL >>>**

9 **Table C-16**

10 **CLEC Presence in Business Local Markets in Verizon NJ's Territory¹⁵⁹**

11 **(ranked by scale of CLEC)**

12 **<<<BEGIN CONFIDENTIAL**

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¹⁵⁹ / Proprietary Verizon responses to RC-NVJ-26a-f.

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2 **END CONFIDENTIAL>>>**

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2 Q: **Have you examined CLEC presence, based on Verizon NJ's wholesale facilities, by wire**
3 **center?**

4 A: Yes. Confidential Exhibit SMB-C-27 summarizes our analysis and shows, separately by
5 wire center, each of the following: (1) the quantity of CLECs that serve the wire center
6 using one or more of the three modes of entry that rely on Verizon NJ's facilities (i.e.,
7 resale, Wholesale Advantage, and loops); (2) the quantity of CLECs that rely on resale; (3)
8 the quantity of CLECs that rely on Wholesale Advantage; and (4) the quantity of CLECs that
9 rely on loops. Because the CLEC names are "masked" we cannot comment specifically on
10 the companies that Confidential Exhibit SMB-C-27 captures. The other limitation of this
11 exhibit is that it does not convey any information at all about the scale of the CLECs'
12 presence. In other words, if a particular CLEC serves only one business line, its presence
13 will be reflected in Confidential Exhibit SMB-C-27. It is important, therefore, not to confuse
14 the *quantity* of CLECs that are present with their ability to constrain Verizon NJ's market
15 power.

16 Q: **What other evidence supports a finding that business local exchange service markets**
17 **are not competitive?**

18 A: We have reviewed various evidence supporting a finding that business local exchange
19 service customers, whether they subscribe to 1 or 23 lines, do not have economic substitutes
20 for ILECs' basic local exchange service offerings. Among the relevant evidence are the
21 following:

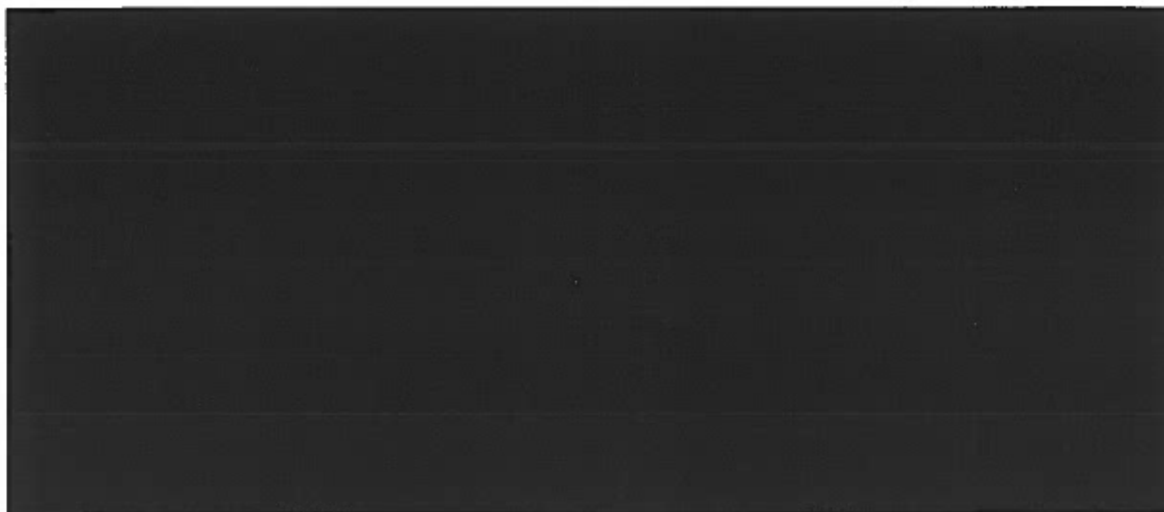
- 1 • Assessment data shows that most suppliers are fringe competitors (see Figure C-2
2 above and Confidential Exhibit SMB-19);
- 3 • The Rate Counsel Survey shows that most CLECs that serve business customers
4 serve metropolitan areas and focus on enterprise customers (Exhibit SMB-21);
- 5 • Data on facilities-based entry shows that most companies are fringe carriers
6 (Confidential Table C-9);
- 7 • Data on resale, Wholesale Advantage, and loops show that CLEC presence based on
8 ILECs' facilities is not sufficient to constrain ILECs' rates in business local
9 exchange service markets, and furthermore, competition that is based on ILECs'
10 facilities necessarily pose a less significant competitive pressure than does
11 competition based on CLECs' own facilities (Tables C-15 and C-16); and
- 12 • Carriers' descriptions of their products on their websites and annual reports focus on
13 enterprise customers and the provision of "integrated data services," rather than local
14 exchange service for smaller business customers.
- 15 Table C-17, below, also illustrates the absence of effective competition in business local
16 exchange markets.

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Table C-17

There Is Negligible Competition for Business Local Exchange Service

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Q: Please describe generally PAETEC?

A: According to PAETEC's Form 10-Q: "PAETEC's primary business is providing business end-user customers in metropolitan areas with a package of integrated broadband services that encompasses data services, including Internet access services and virtual private network services, and voice services, including local telephone services and domestic and international long distance services. As of September 30, 2011, PAETEC provided services for approximately 51,000 business customers in a service area encompassing 86 of the top 100 metropolitan statistical areas."¹⁶⁰ As of December 1, 2011, PAETEC was acquired by

¹⁶⁰ / PAETEC Holding Corp. SEC Form 10-Q for the Quarter ending September 30, 2011, filed November 7, 2011, at 18.

1 Windstream.¹⁶¹

2 **Q: Please describe XO Communications.**

3 A: According to its website, XO “[e]xclusively serves businesses, government, domestic and
4 international telecommunications carriers, cable companies and mobile wireless service
5 providers.”¹⁶² Through its Business Services unit, it provides “advanced VoIP, Internet,
6 managed network, and hosted IT solutions for small and medium sized businesses,
7 enterprises and government agencies.”¹⁶³ XO’s Carrier Services unit “delivers high-
8 bandwidth IP and inter-city network transport services for domestic and international
9 carriers, service providers, cable companies and mobile wireless companies.”¹⁶⁴

10 **Q: Please describe Broadview Networks.**

11 A: Broadview Networks is a carrier concentrating on providing communications services to
12 businesses. According to a recent SEC filing, Broadview “focus[es] our business strategy on
13 providing T-1 and Ethernet-based products, as well as our cloud-based services, which we
14 believe offer greater value to customers, increase customer retention and provide revenue
15 growth opportunities for us. Historically, the Company's revenue was dominated by off-net,
16 voice revenue from smaller customers. We have transitioned a large percentage of our
17 revenue base to accounts that purchase T-1- and Internet Protocol- (“IP”) based products and
18 cloud-based services.”¹⁶⁵

¹⁶¹ / Windstream press release “Windstream completes acquisition of PAETEC,” Dec. 1, 2011.

¹⁶² / <http://www.xo.com/about/Pages/overview.aspx>, accessed February 21, 2012.

¹⁶³ / *Id.*

¹⁶⁴ / *Id.*

¹⁶⁵ / Broadview Networks Holdings, Inc. SEC Form 10-Q for the Quarter ending September 30, 2011, filed

1 **Q: Can you summarize your perspective on these three carriers?**

2 A: Yes. These carriers concentrate on high-end, data-intensive products, and serve primarily
3 large business and government customers. These carriers do not provide competitive
4 discipline in the market for business local exchange service.

5 **Q: Please describe Verizon NJ's business customer base.**

6 A: As we discuss earlier, Verizon NJ failed to respond to all of Rate Counsel's questions, which
7 prevents us from determining the distribution of demand for business local exchange service
8 among the <<<BEGIN CONFIDENTIAL [REDACTED] END CONFIDENTIAL>>> business
9 customers. As Table C-3 in Section III above shows, there are <<<BEGIN
10 CONFIDENTIAL [REDACTED] END CONFIDENTIAL>>> single-line business customers, and
11 the average number of lines for those <<<BEGIN CONFIDENTIAL [REDACTED] END
12 CONFIDENTIAL>>> business customers that subscribe to more than one line is
13 <<<BEGIN CONFIDENTIAL [REDACTED] END CONFIDENTIAL>>>. ¹⁶⁶ Thus, there continues
14 to be a significant number of small businesses throughout the state that rely on affordable,
15 reliable basic local exchange service.

16 **Q: Is there evidence of businesses' continuing reliance on Verizon NJ's business local
17 exchange service?**

18 A: As Confidential Exhibit SMB-C-9 (Verizon NJ's 4-page confidential attachment to RC-
19 VNJ-6e) shows, demand for Verizon NJ's single line business service <<<BEGIN
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[REDACTED]

[REDACTED]

[REDACTED] **END CONFIDENTIAL>>>** Affordable, reasonably-priced basic local exchange service is an important policy goal for small businesses, particularly in New Jersey's smaller communities, and indeed for businesses throughout the state.

Q: What then do you recommend regarding business local exchange service?

A: We recommend that the Board regulate business local exchange service rates. By ensuring that the rates, terms, and conditions for business local exchange service are reasonable, the Board will encourage economic development and will support small business enterprises, which is particularly important during a weak economy.

The Board should dismiss any ILEC arguments regarding the cost of basic local exchange service unless the Board conducts a comprehensive investigation of the allocation and assignment of costs and revenues associated with ILECs' networks in New Jersey.

Q: Perhaps the basic local exchange services of Verizon NJ and CenturyLink are priced too low, such that the carriers would need to raise prices to attain competitive levels? Please address.

A: It is our understanding that these issues are not within the scope of this proceeding. Therefore, in our view (and not speaking as attorneys), we believe that it is critically important that the Board strike from ILECs' testimony any discussion of the purported failure of local exchange rates to cover associated costs. Absent comprehensive, verifiable

¹⁶⁶ / See Table C-3 for sources for these data.

1 information to the contrary, the Board should assume that the currently tariffed rates are just
2 and reasonable and that in combination with the diverse source of revenues made possible by
3 virtue of the ILECs' uniquely ubiquitous networks (e.g., caller identification, access charges,
4 DSL, etc.), they enable Verizon NJ and CenturyLink to earn a reasonable rate of return. It is
5 our understanding that the ILECs certainly could petition for a comprehensive investigation
6 of revenues and costs. Absent such an investigation, it would be patently unfair to
7 consumers to allow Verizon NJ and CenturyLink to rely on speculative claims of purportedly
8 below-market-price local exchange services.

9 **Q: Are you aware that, by statute, it is the telecommunications policy of the state to**
10 **encourage diversity and economic development?**¹⁶⁷

11 **A:** Yes. By ensuring that the rates, terms, and conditions for ILECs' services are just,
12 reasonable, and adequate, the Board will promote diversity and economic development
13 throughout the state. Small businesses have the least diversity in telecommunications supply
14 and therefore are particularly vulnerable to the ILECs' exercise of market power, which can
15 be exercised through unreasonable rates or service quality deterioration.

16 **Availability of information for consumers seeking to make informed purchasing choice.**

17 **Q: Please describe the role of information in efficient markets.**

18 **A:** Consumers require access to accurate information in order to make efficient purchasing
19 decisions.

20 **Q: In your view, is there a relationship between the declining demand for the ILECs' basic**

¹⁶⁷ / N.J.S.A. 48:2.21.16 (a)(1)-(5),

1 **standalone local exchange service and consumers' awareness of the option to purchase**
2 **this service?**

3 A: Yes. Incumbent carriers often refer to the declining demand for standalone service, but this
4 trend is, in part, self-fulfilling. If, for example, Verizon NJ and CenturyLink are actively
5 marketing bundles and failing to market standalone service, it should come as no surprise
6 that consumer demand for this service is waning. Without access to good information,
7 consumers cannot make efficient pricing decisions. Indeed, bundled offerings, rather than
8 constraining the rates for a la carte services, create an incentive for ILECs to raise rates for
9 standalone services to encourage migration to double-play, triple-play, and quadruple-play
10 packages.

11 **Conditions of service.**

12 **Q: What is the relationship of the quality of the ILECs' services to the Board's assessment**
13 **of the level of competition that ILECs confront in relevant product and geographic**
14 **markets?**

15 A: The quality of service that any supplier provides is a barometer of the level of competition in
16 a market. In the airline industry, for example, the timeliness of arrivals and departures sheds
17 light on the relative attractiveness of any given airline to informed consumers. The speed
18 and quality of repair of an automobile could be a factor in a consumer's choice of an
19 automobile repair center. If markets for basic local service were effectively competitive,
20 one would expect, for example, ILECs to research customer satisfaction, attempt to shorten
21 the interval of time between when a customer orders and receives service, repair out-of-

1 service lines in a timely manner, and assign and allocate adequate resources to maintain their
2 networks. It is also possible that service quality varies throughout the state.¹⁶⁸

3
4 However, by refusing to respond to Rate Counsel discovery, the ILECs prevented us from
5 examining their service quality, and therefore prevented us from analyzing important
6 attributes of the conditions of local markets in New Jersey.

7
8 **The Board should rate-regulate essential, noncompetitive services to protect consumers from**
9 **supracompetitive rate levels and service quality deterioration.**

10
11 **Q: What are the implications of the Board classifying a service as competitive that actually**
12 **fails to confront effective competition?**

13 **A:** If a service is deemed to be competitive, then consumers would need to rely on market forces
14 to yield just and reasonable rates, and adequate service quality. The statute states in
15 pertinent part: “Notwithstanding the provisions of R.S.48:2-18, R.S.48:2-21, section 31 of
16 P.L.1962, c.198 (C.48:2-21.2), R.S.48:3-1, or any other law to the contrary, the [B]oard shall
17 not regulate, fix or prescribe the rates, tolls, charges, rate structures, terms and conditions of
18 service, rate base, rate of return, and cost of service, of competitive services.”¹⁶⁹ Based on
19 this language, if the Board reclassifies a service, rate protection and the service quality
20 standards would no longer apply.

21

¹⁶⁸ / See e.g., Massachusetts D.T.C. 09-1, In re Verizon Service Quality in Western Massachusetts.
¹⁶⁹ / *N.J.S.A.*: 48:2-21.19(a).

1 The deregulation of mass market services would likely lead to rate increases and service
2 quality degradation. Furthermore, deregulation hinders the Board's ability to promote
3 broadband service and, generally, to ensure that telecommunications policy in New Jersey is
4 compatible with the goals of the state. Because Verizon NJ controls bottleneck elements
5 (switched and special access), which are necessary inputs to its rivals, and does not yet price
6 these elements based on their underlying costs, economically efficient competition cannot
7 evolve. Therefore, CLECs cannot yet constrain the rates of Verizon NJ's services.

8 **Summary of findings and recommendations regarding residence and business local exchange**
9 **service.**

10
11 **Q: Please summarize your analysis of evidence and your conclusions regarding local**
12 **exchange service markets.**

13 **A:** The statutory criteria for finding services competitive clearly are not met for basic residence
14 and basic business local exchange service (regardless of the quantity of lines to which a
15 customer subscribes). Customers do not have economic substitutes for basic local exchange
16 service, and their purchasing decisions demonstrate that they continue to rely on the ILECs
17 for such service.

18 **Q: Ms. Baldwin and Ms. Bosley, other than addressing the relevance of the quality of**
19 **ILECs' installation of service to an assessment of the status of competition, your**
20 **testimony has not yet discussed the proper classification of installation charges. Please**
21 **address this topic.**

22 **A:** In our view, by having demonstrated that local exchange markets are not sufficiently
23 competitive to constrain the rates, terms, and conditions of ILECs' basic local exchange

Testimony of Susan M. Baldwin and Sarah M. Bosley
NJ BPU Docket No. TX11090570

1 service, we have implicitly addressed *all* aspects of basic local exchange service, which
2 necessarily encompasses monthly charges as well as one-time installation charges, and also
3 service quality. Therefore, we recommend that monthly rates *and* installation charges be
4 rate-regulated for basic local exchange service offered to residence *and* business customers.
5

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V. DISCRETIONARY SERVICES MARKET

3

Presently, discretionary services are classified as competitive services.

4

Q: How do ILECs offer discretionary services?

5

A: ILECs offer discretionary features (which are also referred to as optional features, vertical features or custom calling features)¹⁷⁰ on an “unbundled” basis (where customers of standalone basic local exchange service may subscribe to one or more feature) or as part of packages. Customers cannot purchase these features, however, *unless they also subscribe to the ILEC’s dial tone service*. Customers cannot, for example, order voice-only service from Comcast and then separately order caller identification from Verizon NJ or from CenturyLink. This is more than a marketing decision; it arises from how these services are provisioned.

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Q: What is your understanding of how discretionary services presently are regulated?

14

A: As agreed to in the stipulations approved by the Board in 2008, discretionary services that ILECs offer to residential and business customers are classified as competitive,¹⁷¹ but as we demonstrate in our testimony, the Board should re-classify these services as non-competitive.

15

16

17

Q: Why are these services considered “discretionary”?

¹⁷⁰ / For example, CenturyLink states that it “has defined a ‘vertical feature’ as any feature or service described in sections 5.4.2 (U-Touch Service), 5.4.3 (Custom Calling Services), 5.9 (Privacy ID), 5.10 (Talking Call Waiting) or 13.2.1 Obsolete Custom Calling Services of CenturyLink’s Tariff N.J. B.P.U. – No.3.” CenturyLink response to RC-VNJ-16.

¹⁷¹ / The Board stated: “With the exception of Verizon’s residential basic exchange service including usage, single-line business basic exchange service, non-recurring charges for installation of residential services, and residential DA service, the Parties agree that the remainder of Verizon’s mass market retail services will be classified as competitive.”

1 A: The features are not necessary to make a basic dial tone function – customers can place and
2 can receive telephone calls without subscribing to discretionary features. Therefore, these
3 features are considered to be “extra.” On the other hand, some features have become more
4 widely adopted than others, and, indeed, although touch tone was once considered a
5 discretionary service, it is widely considered now to be an essential element of basic local
6 exchange service. Features such as caller identification, speed dial, and call waiting enhance
7 consumers’ control over their use of the basic local exchange service.

8 **Q: Isn’t it true that ILECs were traditionally allowed to charge non-cost-based rates for**
9 **their discretionary services?**

10 A: When ILECs’ services were subject to traditional rate-of-return regulation, the fact that these
11 services were “discretionary” led regulators to permit them to be priced significantly above
12 the ILECs’ cost. However, the putative “non-essential” nature of these features is both
13 anachronistic and irrelevant. Customers’ expectations of what their telecommunications
14 services can do have evolved as computers and software-enabled features have become
15 commonplace. More importantly, however, the question of whether these services are
16 “extra” is not dispositive in the analysis of whether they are provided under competitive
17 conditions – which they clearly are not. In fact, if in the time since rate of return regulation
18 has been eliminated, discretionary features had been subject to effective competition, one
19 would expect their prices to have dropped, which they have not.

20

ILEC Proceeding Order, at 29.

1 **Discretionary services are integrally related to basic local exchange service, and, therefore,**
2 **they do not confront any more competition than does basic local exchange service.**
3

4 **Q: Does it make any sense to think about discretionary services apart from basic local**
5 **exchange service?**

6 A: No. Customers buy discretionary features from Verizon NJ and from CenturyLink either as
7 an optional feature purchased with basic local exchange service or as part of a “package.”
8 For technological reasons, discretionary features are associated with and inseparable from a
9 customer’s dial tone line, and they are provisioned with software in the carrier’s switch.
10 Thus, for example, while a consumer can purchase a box of pasta in one store and a bottle of
11 tomato sauce in another store, in the case of discretionary services, the consumer must
12 purchase the features from the same entity that supplies the dial tone. To do otherwise
13 would be like going to one pizza parlor and requesting a plain cheese pizza and then going to
14 another pizza parlor and attempting to buy toppings for the pizza. The toppings are
15 discretionary but cannot be purchased separately.¹⁷² Relative to their basic local exchange
16 service customers, ILECs possess bottleneck control over ancillary and integrally connected
17 discretionary features.

18 **Q: What is the implication of the fact that call waiting (or other discretionary features) are**
19 **useless without a dial tone?**

20 A: Unless the underlying basic local exchange service confronts effective competition, then the
21 discretionary feature also cannot confront effective competition, since the two go hand in

¹⁷² / Of course the analogy breaks down if a diner is willing to prepare her own toppings at home.

1 hand. We have demonstrated in Section IV, above, that there is not effective competition for
2 basic local exchange service. Therefore, it follows directly that there is not effective
3 competition for discretionary features.

4 **Q: But in those instances where ILECs offer discretionary features as part of a package or**
5 **bundle such as a Verizon “Freedom” offering, couldn’t they be considered competitive?**

6 **A:** We do not agree that there is sufficient competition for ILECs’ bundles and packages, for the
7 reasons we discuss in Section IV, regarding duopolies (that is, a customer can buy a package
8 with optional features either from the incumbent local exchange carrier *or* from the
9 incumbent cable company, but this two-option choice does not constitute effective
10 competition). We acknowledge, however, that the Board does not regulate packages.¹⁷³

11 **Q: But at some point, if the ILECs were to price discretionary features at sufficiently high**
12 **levels, wouldn’t cable companies’ packages then provide economic substitutes for**
13 **consumers?**

14 **A:** This is a misguided way of thinking about competition. It is unreasonable to attempt to force
15 a service to become “competitive” by permitting a dominant supplier to crank up customers’
16 pain threshold through exorbitant prices. ILECs have already been able to set prices for
17 discretionary services that far exceed their marginal cost. The fact that they have been able
18 to do so is evidence of their market power. The Board should rate-regulate discretionary
19 features so that ILECs are prohibited from implementing yet further rate increases.

¹⁷³ / Ambiguity of what constitutes a package or bundle could allow ILECs arbitrarily to describe any particular set of offerings as a package (thereby bypassing regulatory oversight); we therefore recommend that the Board ensure that packages and bundles be clearly defined and that they not be defined implicitly and unilaterally by ILECs.

1 **The Board's deliberations regarding the classification of discretionary features will affect**
2 **significant quantities of residential and business consumers.**

3
4 **Q: Is there demand data in this proceeding showing how many customers will be affected**
5 **by the Board's deliberations regarding the classification of discretionary features?**

6 **A: Yes. The average number of vertical features purchased by Verizon NJ residential**
7 **customers on a standalone basis is <<<BEGIN CONFIDENTIAL [REDACTED] END**
8 **CONFIDENTIAL>>>¹⁷⁴ and the average number of vertical features purchased through a**
9 **package is <<<BEGIN CONFIDENTIAL [REDACTED]. END CONFIDENTIAL>>>¹⁷⁵**

10 **Q: Have you examined demand for individual discretionary features by Verizon NJ's**
11 **standalone residential customers?**

12 **A: Yes. Table C-18, below, provides the "take-rate" for six different vertical features by**
13 **standalone Verizon NJ residential customers.**

14

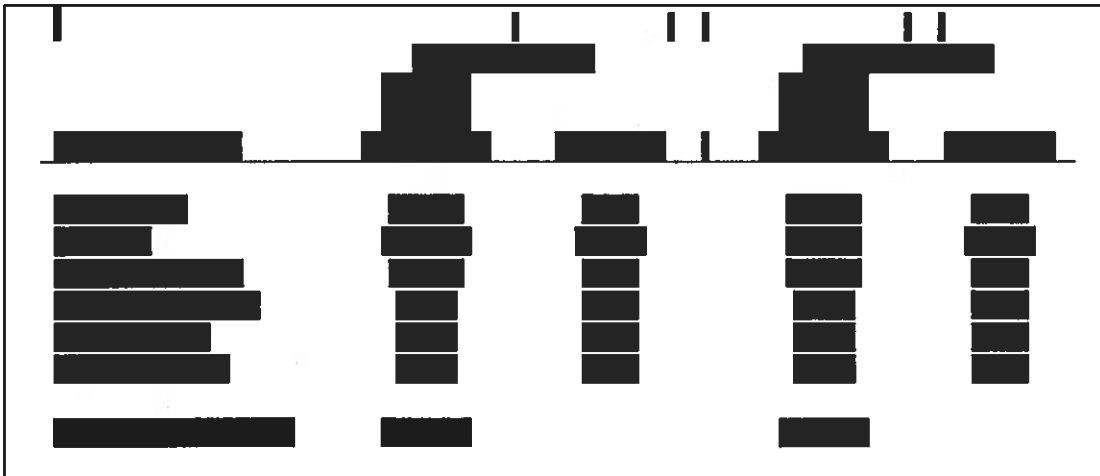
¹⁷⁴ / Confidential Verizon NJ response to RC-VNJ-28.

¹⁷⁵ / Confidential Verizon NJ response to RC-VNJ-30.

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Table C-18
Total Demand by Basic Standalone Residential Customers
Verizon NJ¹⁷⁶

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Q: Why do you examine data only for two years?

A: As was the case for many of Verizon NJ's responses to questions that Rate Counsel propounded, although Rate Counsel sought data for five years, Verizon NJ, without explanation, chose to provide data for only two years.

Q: Did you also examine the relative quantities of features to which basic residential customers subscribe?

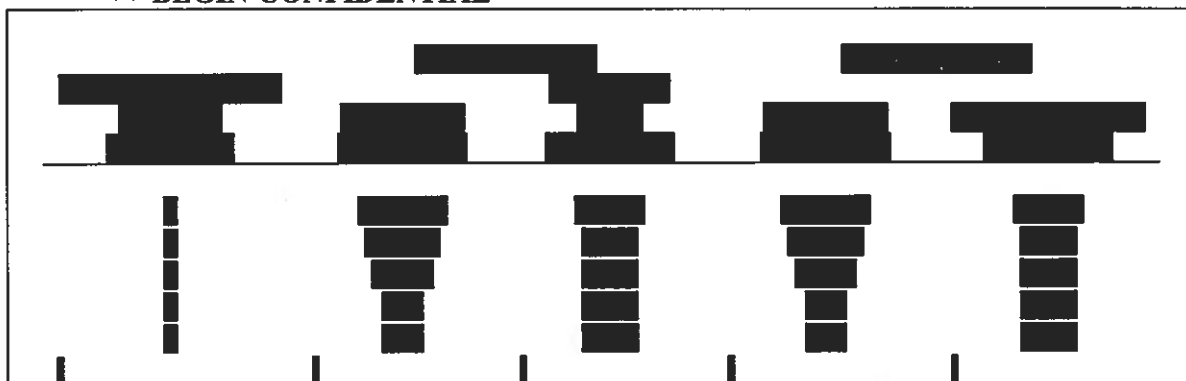
¹⁷⁶ / Confidential Verizon NJ responses to RC-VNJ-16 and 7a. See also confidential Verizon NJ response to RC-VNJ-2, which we have included as Confidential Exhibit SMB-C-10, which provides demand data by feature, separately for residence and for business customers, and separately for December 2009, December 2010, and September 2011.

1 A: Yes. Table C-19 below, shows the distribution of demand by basic customers for
2 discretionary features.
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Table C-19
Residential Demand for Discretionary Features by Basic Customers: Stratification
Verizon NJ¹⁷⁷

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The data in Table C-19 above shows that approximately **<<<BEGIN CONFIDENTIAL**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] **END**

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Q: Did you also examine the distribution of demand for discretionary features by “package” customers?

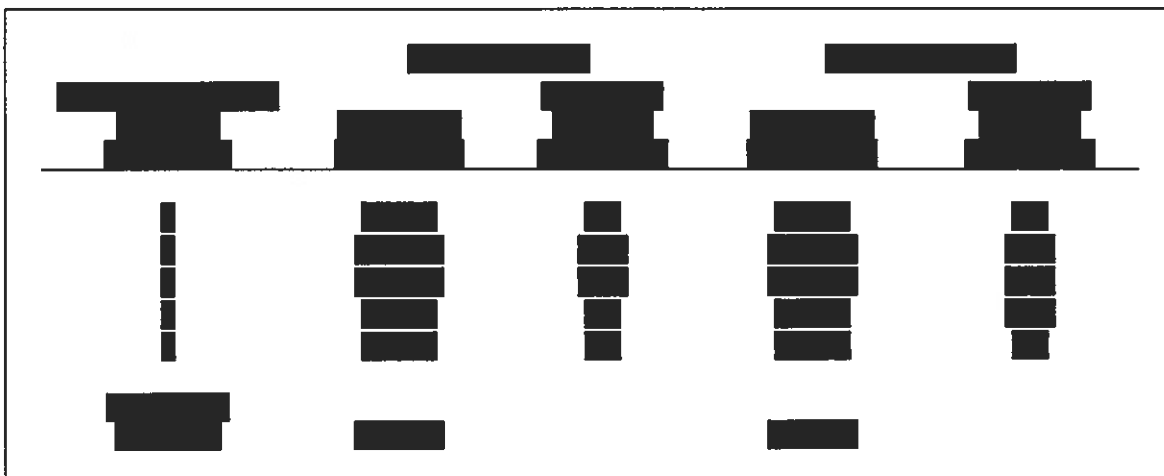
A: Yes. Table C-20, below, summarizes that analysis.

¹⁷⁷ / Confidential Verizon NJ responses to RC-VNJ-27 and 7a.

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Table C-20
Residential Demand for Discretionary Features by “Package” Customers: Stratification
Verizon NJ¹⁷⁸

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Table C-20, above, shows that of the <<<BEGIN CONFIDENTIAL [REDACTED]
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Q: Please summarize consumer demand by CenturyLink’s residential customers for discretionary services.

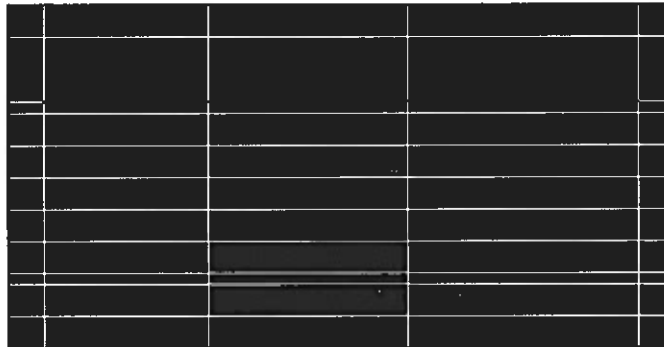
A: The average number of vertical features for residential customers on a standalone basis for

¹⁷⁸ / Confidential Verizon NJ responses to RC-VNJ-29 and RC-VNJ-14.

1 December 2010 and September 2011 was <<<BEGIN CONFIDENTIAL [REDACTED]
2 [REDACTED] END CONFIDENTIAL>>> respectively.¹⁷⁹ By comparison, the average number of
3 vertical features for residential customers on that take bundles for December 2010 and
4 September 2011 was <<<BEGIN CONFIDENTIAL [REDACTED]
5 [REDACTED] . END
6 CONFIDENTIAL>>>¹⁸⁰ The following two tables summarize the distribution of demand
7 among residential customers of unbundled, basic local exchange service (Table C-21) and
8 among residential customers of packages (Table C-22)

9 **Table C-21**
10 **Residential Demand for Discretionary Features by Basic Customers: Stratification**
11 **CenturyLink¹⁸¹**

12 <<<BEGIN CONFIDENTIAL
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15 **END CONFIDENTIAL>>>**
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¹⁷⁹ / Confidential CenturyLink response to RC-CTL-27. We have included CenturyLink's confidential response to RC-CTL-16 as Confidential Exhibit SMB-C-28, which summarizes the demand, as of December 2010 and September 2011, per feature, separately by residence and business customers who purchase features on an "unbundled" basis, that is, not as part of a package.

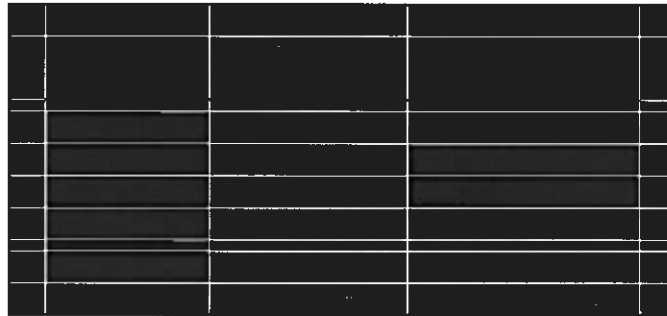
¹⁸⁰ / Confidential CenturyLink response to RC-CTL-29.

¹⁸¹ / Confidential CenturyLink response to RC-CTL-26.

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Table C-22
Residential Demand for Discretionary Features by “Package” Customers: Stratification
CenturyLink¹⁸²

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A large rectangular area of the document is completely redacted with a solid black box, obscuring the data that would have been presented in Table C-22.

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END CONFIDENTIAL>>>

9 **Prices for discretionary services provide evidence about the level of competition.**
10

11 **Q: What rates are presently in effect for some of Verizon NJ’s discretionary features?**

12 **A:** Table 23 below summarizes monthly rates for some of Verizon NJ’s discretionary features,
13 and shows that for all but one of the features, Verizon NJ charges residence customers more
14 than it does business customers.¹⁸³ The cost of providing features does not vary depending
15 on the customer class, and, therefore, Verizon NJ’s ability to sustain two separate levels of
16 rates provides evidence of its market power.

¹⁸² / Confidential CenturyLink response to RC-CTL-28. See Confidential CenturyLink response to RC-CTL-14, which we include as Confidential Exhibit SMB-C-29, which shows the numbers of subscribers to bundles and packages.

¹⁸³ / Although our tables summarize rates for selected Verizon NJ and CenturyLink discretionary features, our analysis and recommendations in this section are applicable to all of Verizon NJ’s and CenturyLink’s discretionary features.

Table 23

Monthly Rates for Selected Discretionary Features¹⁸⁴

Verizon NJ

Discretionary Feature	Residence	Business
Call Waiting	\$ 5.99	\$ 7.58
Caller ID with name	\$ 10.15	\$ 9.50
Three Way Calling	\$ 3.60	\$ 2.66
Speed Calling (8 number capacity)	\$ 3.60	\$ 2.69
Speed Calling (30 number capacity)	\$ 4.94	\$ 3.84
Call Forwarding	\$ 3.60	\$ 3.69

Q: Have you also reviewed CenturyLink's rates for its discretionary services?

A: Yes. Table 24, below summarizes monthly rates for selected features.

Table 24

Monthly Rates for Selected Discretionary Features¹⁸⁵

CenturyLink

Discretionary Feature	Residence	Business
Call Waiting	\$ 6.00	\$ 6.00
Caller ID	\$ 5.00	\$ 6.00
Caller ID with name	\$ 8.60	\$ 8.60
Three Way Calling	\$ 5.00	\$ 5.00
Speed Calling (8 number capacity)	\$ 5.00	\$ 5.00
Call Forwarding	\$ 5.00	\$ 5.00

Q: What is the significance of rates to an assessment of market structure?

A: ILECs' ability to sustain rates that exceed costs by a substantial margin provides evidence of

¹⁸⁴ / Verizon New Jersey, Inc., Tariff B.P.U.-N.J.-No. 2: 21st revised page 53.1, effective August 1, 2010; 16th revised page 59, effective August 1, 2010; 11th revised page 58, April 16, 2011.

¹⁸⁵ / United Telephone Company Tariff N.J.B.P.U. - No. 3: 8th revised page 69, effective October 17, 2008; 10th revised page 69.1.1, effective May 1, 2010; 10 revised page 69.2, effective October 17, 2008 (provided in response to RC-CTL-1).

1 their market power. Furthermore, the customer that wants, for example, caller
2 identification, is “captive” to the ILEC that provides it with basic service. The level of rates
3 that ILECs can sustain affects consumer welfare: prices affect demand, and, therefore, if
4 prices exceed the underlying cost to provide the features, the economically inefficient price
5 levels will artificially suppress demand, and therefore lower potential consumer welfare.

6 **Q: Have the ILECs increased rates for their discretionary services?**

7 **A:** Yes. For example, in 2004, Verizon NJ’s monthly rates for residential and business caller ID
8 were \$6.55 and \$8.50, respectively,¹⁸⁶ and they are now \$10.15 and \$9.50. In 2004, the rates
9 for residential call waiting and three-way calling were \$4.59 and \$2.30, respectively,¹⁸⁷ and
10 they are now \$5.99 and \$3.60. CenturyLink’s call waiting rate <<<**BEGIN**

11 **CONFIDENTIAL** [REDACTED] **END**

12 **CONFIDENTIAL.**¹⁸⁸ In our view, the classification of discretionary services as
13 competitive has led to consumer harm because there is insufficient competitive pressure to
14 constrain the ILECs’ rates. The consumers who are most harmed are particularly those
15 consumers with limited disposable incomes, who cannot afford to subscribe to the more
16 expensive packages and triple play bundles.

17 **Q: Did you analyze the impact of the pricing changes on the demand for the features?**

18 **A:** Rate Counsel sought demand information, and specifically asked:

¹⁸⁶ / RC-VNJ-32, at 14 (BPU NJ-2, original page 4.4, November 22, 2004). We incorporate RC-VNJ-32 as Exhibit SMB-30 by reference because it is voluminous.

¹⁸⁷ / RC-VNJ-32, at 26 (BPU NJ-2, 13th revised page 59, November 22, 2004).

¹⁸⁸ / Confidential CenturyLink response to RC-CTL-31. Because these are tariffed rates, it is not evident why this

1 List all monthly and nonrecurring price changes affecting residential
2 consumers in New Jersey since January 1, 2007 for all services whether
3 offered on a bundled (e.g., Freedom package) or a la carte basis. For each
4 such change, include (a) the service or feature affected; (b) the rate as of
5 January 1, 2007; (c) the demand as of January 1, 2007; (d) the date of the rate
6 change; (e) the new rate; and (f) the demand as of the most recent time period
7 for which information is available.¹⁸⁹
8

9 However, Verizon NJ did not provide the demand data requested.¹⁹⁰ For this reason, we
10 were unable to determine the elasticity of demand for Verizon NJ's vertical features.

11 However, the fact Verizon NJ was able to profitably sustain price increases provides
12 evidence that the features not competitive. CenturyLink also did not provide the data on
13 demand that was requested.¹⁹¹

14 **The cost to carriers of providing discretionary features is negligible.**

15 **Q: Did Rate Counsel seek cost information from the ILECs regarding the provision of**
16 **discretionary features?**

17 **A:** Yes. For example, RC-VNJ-44 asks: "Separately for each residential service and feature,
18 provide the most recent cost study completed by or on behalf of Verizon NJ. Specify whether the
19 cost study is a fully allocated cost study or marginal cost study or other study." In response,
20 Verizon NJ states:

21 Verizon is in the process of developing its cost testimony, including information
22 about costs. Any relevant information will be submitted with Verizon's direct
23 testimony due on February 24, 2012.

response has been designated as confidential.

¹⁸⁹ / RC-VNJ-32.

¹⁹⁰ / *Id.*

¹⁹¹ / CenturyLink response to RC-VNJ-31.

1 **Q: Do you have any public information regarding the cost to carriers to provide**
2 **discretionary features?**

3 A: Yes. In a Massachusetts proceeding regarding total element long run incremental cost,
4 Verizon proffered evidence of “monthly feature port additive costs that, for individual lines,
5 range[d] between \$0.03 (for anonymous call rejection) and \$1.48 (for remote call
6 forwarding).”¹⁹² Therefore, based on Verizon’s cost study, the incremental cost of vertical
7 features ranges between \$0.03 and \$1.48.¹⁹³ It is unlikely that Verizon’s cost of providing
8 discretionary features differs significantly among its jurisdictions.¹⁹⁴ Furthermore, because
9 carriers use software in central office switches to provide discretionary features, it is entirely
10 possible that incremental costs have declined since 2003.

11 **Q: Why, in your view, is the cost of discretionary features relevant to this proceeding?**

12 A: The ILECs’ ability to sustain rates at supracompetitive levels – well in excess of costs – is
13 evidence of market power. Artificially high rates suppress demand and therefore reduce
14 total consumer welfare. An ILEC has an economic incentive to entice consumers to migrate
15 to higher-revenue packages in which the implicit price of discretionary services may be

¹⁹² / Massachusetts Department of Telecommunications and Energy D.T.E. 01-20, *Investigation by the Department of Telecommunications and Energy on its own Motion into the Appropriate Pricing, based upon Total Element Long-Run Incremental Costs, for Unbundled Network Elements and Combinations of Unbundled Network Elements, and the Appropriate Avoided-Cost Discount for Verizon New England, Inc. d/b/a Verizon Massachusetts’ Resale Services in the Commonwealth of Massachusetts*, July 11, 2003, citing Exh. VZ-39.

¹⁹³ / Furthermore, because Verizon did not meet its burden of proof to substantiate these feature port additive costs, the DTE directed Verizon to “eliminate the feature port additive costs from its cost study.” *Id.*, at 295.

¹⁹⁴ / The Board reviewed Verizon NJ’s costs for discretionary features in 2004. *UNE Order*, at 36-37; *In the Matter of the Board’s Review of Unbundled Network Elements Rates, Terms and Conditions of Bell Atlantic – New Jersey, Inc.*, Docket No. TO00060356, *Decision and Order on Motions for Reconsideration and Request for Limited Reopening and Motions to Strike*, September 22, 2004, at 38-41.

1 somewhat lower – and, of course, the ILEC’s total revenues are much higher – but a
2 migration to such high-cost packages will harm consumers whose economic incentives are to
3 minimize their monthly telecommunications expenditures. Because, under the existing
4 regulatory framework, ILECs may raise rates without constraint, they can influence the
5 pricing trade-off between purchasing unbundled services and services through a package.

6 **Q: Do customer sales representatives receive higher commissions or bonuses if they sell**
7 **packages than if they sell services and features on a standalone basis?**

8 A: Rate Counsel sought this information, but Verizon NJ did not provide it. Specifically, in
9 RC-VNJ-84, Rate Counsel requested the following: “Please describe fully any incentives,
10 commissions, bonuses or other compensation, if any, provided to employees that are linked
11 to the quality of service provided to: (a) Unbundled basic local exchange service; and (b)
12 Freedom packages.” Verizon NJ did not respond.

13
14 In response to RC-CTL-37 and RC-CTL-38, CenturyLink describes how customers are
15 informed about bundles and à la carte service. Both appear to be advertised on
16 CenturyLink’s website.¹⁹⁵ However, CenturyLink mentions “print, radio, television and
17 multi-media outlets” for the bundles, but not for basic service.¹⁹⁶ In terms of compensation
18 for sale of bundles, CenturyLink states that the compensation of its employees “is

¹⁹⁵ / See, <http://www.centurylink.com/home/phone/> and <http://www.centurylink.com/home/bundles/>,
accessed 02/23/2012.

¹⁹⁶ / CenturyLink response to RC-CTL-38.

1 determined through many factors and metrics including but not limited to quantities of
2 *strategic products* sold, average call handling time, and quality service effectiveness, when a
3 customer orders both residential local service on a bundled basis or on an unbundled
4 basis.”¹⁹⁷

5 **Q: What are the implications of the Board retaining the competitive classification for**
6 **discretionary features for residential and business customers?**

7 A: Carriers will be able to continue to raise rates for discretionary features. Artificially high
8 rates suppress demand, which leads to loss of consumer welfare. If the Board, contrary to
9 our recommendation, retains its classification of discretionary features as competitive,
10 Verizon NJ and CenturyLink will have the ability to use higher rates for discretionary
11 standalone features as a wedge to force more consumers onto their bundled offerings.
12 Consumers who resist this tactic may be forced to simply drop their discretionary features
13 because of exorbitant prices, thus diminishing the utility of their basic service.

14 **Summary of findings and recommendations regarding discretionary services.**

15 **Q: Please summarize your analysis and recommendations regarding discretionary**
16 **features.**

17 A: Verizon NJ’s and CenturyLink’s custom calling features should be classified as non-
18 competitive. Furthermore, Verizon NJ should be prohibited from avoiding the classification
19 of “competitive” simply by creating “packages” that bypass regulatory oversight. In other

¹⁹⁷ / CenturyLink response to RC-CTL-40 (emphasis added).

1 words, we are concerned that Verizon NJ and CenturyLink could “create” packages that
2 consist, for example, of basic local exchange service and one feature; or basic local exchange
3 service and two features. Absent regulatory oversight, ILECs could offer a promotional rate
4 to encourage customers to migrate to “packages;” then once the promotional period expires,
5 they could increase the rate of the package. Customer inertia would likely discourage
6 consumers from migrating back to the purchase of desired services features on a standalone
7 basis.

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VI. DIRECTORY ASSISTANCE

3 Background

4 **Q: Please describe Verizon NJ's and CenturyLink's present DA service that it offers to**
5 **residential consumers.**

6 **A: A two-call allowance is included with Verizon NJ's basic local exchange service; for each**
7 **additional call, Verizon charges \$1.50. CenturyLink also charges \$1.50 per call over a two-**
8 **call allowance.**

9 Analysis of data shows continuing consumer demand for DA.

10 **Q: Have you examined the distribution of DA demand among households?**

11 **A: Yes. Verizon NJ provided monthly demand data for November 2010 through October**
12 **2011.¹⁹⁸ Table C-25 is based on the twelve individual months' of data that Verizon NJ**
13 **provided, and shows the average monthly demand data. Separately, for average monthly DA**
14 **demand of zero through ten calls, and also for more than 10 calls, Table C-25 shows (1) the**
15 **quantity of lines associated with the specific DA demand; (2) the total DA demand**
16 **associated with that specific demand; (3) the percentage of total lines associated with the**
17 **particular level of DA demand; and (4) the percentage of total DA demand associated with**
18 **the particular level of DA demand. For example, Table 25-C shows that on average**
19 **<<<BEGIN CONFIDENTIAL [REDACTED] END CONFIDENTIAL>>> households, i.e.,**
20 **<<<BEGIN CONFIDENTIAL [REDACTED] END CONFIDENTIAL>>> percent of households,**

¹⁹⁸ / Verizon NJ confidential response to RC-VNJ-8, reproduced as Confidential Exhibit SMB-C-31.

1 make two DA calls per month, which accounts for <<<BEGIN CONFIDENTIAL [REDACTED]
2 END CONFIDENTIAL>>> percent of total DA calls.

3
4 **Table C-25¹⁹⁹**

5 **Monthly Average of Residential LDA Calls**

6 **November 2010-October 2011**

7 **Verizon NJ**

8 <<<BEGIN CONFIDENTIAL

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17 **END CONFIDENTIAL>>>**

18 **Q: What else does Table C-25 above show?**

19 **A: Table C-25 shows that, on average, during any month, <<<BEGIN CONFIDENTIAL [REDACTED]**
20 **END CONFIDENTIAL>>> percent of households (that is, 100 percent minus the**
21 **<<<BEGIN CONFIDENTIAL [REDACTED] END CONFIDENTIAL>>> percent who do not**

¹⁹⁹ / Verizon NJ confidential response to RC-VNJ-8, reproduced as Confidential Exhibit SMB-C-31. Monthly

1 make any DA calls) make one or more DA calls.

2 **Q: Does that mean that only <<<BEGIN CONFIDENTIAL [REDACTED] END**
3 **CONFIDENTIAL>>> percent of households use Verizon NJ's DA over the course of a**
4 **year?**

5 A: No. Table C-25 summarizes average monthly demand but does not provide any
6 information about *which* households are the source of the DA demand. One subset of
7 households may call DA in January and a different subset may call DA in February.

8 **Q: Did you seek to obtain information about the unique number of households that rely on**
9 **DA over the course of a year?**

10 A: Yes. In RC-VNJ-15, Rate Counsel sought the percentage of Verizon's total residential
11 customers that utilize DA services. We have two concerns with Verizon NJ's response.

12 **Q: What is your first concern?**

13 A: First, it is not evident to us how to reconcile Verizon NJ's response to this interrogatory with
14 the data that Verizon NJ also provided that we summarize in Table C-25. Verizon NJ states
15 that <<<BEGIN CONFIDENTIAL [REDACTED] END CONFIDENTIAL>>> percent of primary
16 residential lines use directory assistance in September 2011 and that <<<BEGIN
17 CONFIDENTIAL [REDACTED] END CONFIDENTIAL>>> percent of primary residential lines
18 used directory assistance in December 2010.²⁰⁰ These numbers are inconsistent with the data
19 in Table C-25, above, which show that, on average <<<BEGIN CONFIDENTIAL [REDACTED]
20 END CONFIDENTIAL>>> percent of households make one or more DA calls.

average is based on data for twelve months.

1 **Q: What is your second concern with Verizon NJ's response to RC-VNJ-15?**

2 A: As we mention above, from month to month, the same universe of households do not
3 necessarily use DA; instead, from month to month, some households may "join" the
4 population of DA users, while other households "exit" the DA-user population. Therefore,
5 the intention of RC-VNJ-15 was to seek the percentage of *unique* households that, within a
6 12-month-period, use DA. However, Verizon NJ did not provide the information sought.
7 Instead, Verizon NJ simply provided data points for two different months, i.e., December
8 2010 and September 2011. Table C-25 above provides the average percentage of households
9 within a single month that use DA, and the underlying data (Verizon NJ's confidential
10 response to RC-VNJ-8), provides monthly demand data. However, neither the average data
11 nor the underlying monthly data shed light on the number of unique residential customers
12 that rely on Verizon NJ's DA service over the course of a year.

13 **Q: Please explain the significance of this missing information.**

14 A: In assessing the utility of DA to residential consumers, the Board may wish to consider how
15 many different households avail themselves of DA over the course of a year. If different
16 households are relying on DA from month to month (or if the relative use by particular
17 households varies from month to month), then the information summarized in Table C-25
18 does not reflect how widespread DA usage is among households in New Jersey.

19 **Q: Nonetheless, doesn't Table C-25 above show that <<<BEGIN CONFIDENTIAL [REDACTED]**
20 **[REDACTED] END CONFIDENTIAL>>> of residential customers, that is, those who**

²⁰⁰ / Verizon NJ confidential response to RC-VNJ-15.

1 **make more than 10 DA calls per month, make <<<BEGIN CONFIDENTIAL ■ END**
2 **CONFIDENTIAL>>> percent of DA calls, and, indeed make on average approximately**
3 **<<<BEGIN CONFIDENTIAL ■ END CONFIDENTIAL> DA calls per month?**

4 A: Yes, with the same caveats that we discussed previously, namely that we do not know if this
5 average monthly percentage corresponds with the same set of households from month to
6 month. These customers are paying \$1.50 per call for their above-average use, which
7 (absent any cost data to the contrary) covers the cost of providing the service. As such, there
8 is no evidence that these high-DA-users are harming Verizon NJ or other customers by their
9 use of the DA service. However, it would certainly be appropriate for Verizon NJ to send
10 informational packets to these high DA users, advising them of alternative, less expensive
11 ways for them to obtain directory information.

12 **Q: Do the DA users include any vulnerable populations?**

13 A: This is most likely the case, although we do not have any hard data to verify the specific
14 demand characteristics of vulnerable populations, such as the elderly, visually or physically
15 impaired, or poor. At present, the Board's classification of services includes, as a separate
16 service category, "Directory Assistance and Directory Assistance Call Completion to
17 residential customers with a visual or physical inability to use a directory or directory
18 source." However, there are likely segments of the elderly and disabled population that do
19 not meet the required criteria, are unaware of the service, are reluctant to self-identify as
20 disabled, or for some other reason are not availing themselves of this option. Among other
21 things, some elderly may not be comfortable using computers .

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It is also not possible to tell from Verizon NJ's highly aggregated data whether households that include elderly or disabled persons or persons that lack computer access account for a disproportionate share of the higher-use directory assistance users.

Q: How does the DA usage reported by CenturyLink compare to what is described above for Verizon NJ?

A: CenturyLink states that <<<BEGIN CONFIDENTIAL [REDACTED] END CONFIDENTIAL>>> of its residential customers utilized billed directory assistance in 2011.²⁰¹ As is the case with Verizon NJ's demand data, these are averages and therefore do not convey information about individual customers' usage.

²⁰¹ / CenturyLink confidential response to RC-CTL-15.

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Table C-26
Monthly Average of Residential LDA Calls²⁰²
October 2010-September 2011
CenturyLink

<<<BEGIN CONFIDENTIAL

END CONFIDENTIAL>>>

Q: Have Verizon NJ and CenturyLink changed the rates or terms of residential DA in recent years?

A: Yes. After having increased the rate for its 411 local directory assistance from \$0.20 to \$0.50 per call on February 1, 2004,²⁰³ Verizon NJ raised rates again, to the maximum

²⁰² / CenturyLink confidential response to RC-CTL-45.

²⁰³ / NJ BPU Docket No. TX007110873, Reply Testimony of Susan M. Baldwin, at 16, citing Verizon NJ response

1 amount permitted by the Stipulation, \$1.50 per call. The rate for DA is now 7.5 times what
2 it was 8 years ago.²⁰⁴ CenturyLink increased its per-call charge for DA from \$1.25 to \$1.50,
3 as of September 2010.²⁰⁵

4
5 **Public interest concerns and analysis of competitive alternatives**

6 **Q: Have other states protected residential DA allowances?**

7 **A:** Yes. In January 2012, the Maryland Public Service Commission affirmed the findings
8 of the public utility law judge, whose Proposed Order rejected Verizon's proposal to
9 reduce the residential call allowance from four DA calls to two. The Proposed Order
10 included, among other things, the following:

11 Finally, there is no record evidence of the probable effect of Verizon's
12 proposal on the small number of Verizon customers who have used four free
13 DA calls in the past. It is unclear if these customers depend on free DA calls,
14 or would find a \$1.50 charge for calls three and four burdensome. It is
15 unclear if those who use Verizon's DA service consistently have access to
16 other sources of DA information other than Verizon's DA service. Different
17 Verizon offerings, such as call waiting, an answering service, or Directory
18 Assistance, appeal to different publics. It is not clear on the record in this
19 case that the interest of that part of the public that uses Verizon DA service
20 would be well served by adoption of Verizon's proposed DA call reduction.
21 Therefore, for the foregoing reasons, I conclude that Verizon has not carried
22 its burden of showing that its proposed tariff satisfies the public interest
23 requirement of the statute.²⁰⁶

to RC-VNJ-3 (Exhibit SMB-6 to Baldwin Reply Testimony).

²⁰⁴ / Verizon NJ reports annual DA revenues of approximately <<<BEGIN CONFIDENTIAL [REDACTED] END CONFIDENTIAL>>> percent. Confidential Verizon NJ response to RC-VNJ-46 (a-b). The estimate for 2011 revenues is the annualized figure based on revenue data for January 2011 through October 2011.

²⁰⁵ / CenturyLink response to RC-CTL-31.

²⁰⁶ / Maryland Public Service Commission Case No. 9270, In the Matter of the Proposal of Verizon Maryland Inc. to Reduce the Residential Monthly Directory Assistance "Free" Call Allowance, Order No. 84648, January 20, 2012

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2 **Q: Aren't there numerous alternatives to DA service?**

3 **A:** Yes, but they are not reasonably comparable substitutes to the ILEC's DA service because of
4 key differences, which vary depending on the alternative and include:

- 5 • They require Internet access, which is still far from ubiquitous;
- 6 • They are not as accurate, because they are being maintained on a national basis and
7 being updated sporadically, from sources that may not be as reliable as Verizon NJ or
8 CenturyLink's directory databases.
- 9 • Some alternative DA services accessed by telephone are available only to the
10 providers' own subscribers and not the general public.
- 11 • Only Verizon NJ's (or CenturyLink's) DA service is accessible using the familiar
12 "411" numbering sequence.

13 **Q: Is there widespread familiarity with the availability of alternatives to Verizon NJ's DA**
14 **across the residential consumer base?**

15 **A:** We are not aware of such familiarity. Rather, we observe that residential consumers are
16 highly segmented with respect to their inclination and ability to access the available
17 alternatives. How a customer chooses to obtain directory information depends on knowledge
18 of alternatives, as well as access to them. This varies by age, education, and income, among
19 other factors. For example, consumers who are web-oriented and use wired broadband
20 Internet access are a subset of New Jersey's consumers, as are those who primarily use

(affirming Proposed Order of Public Utility Law Judge issued on November 4, 2011); Proposed Order of Public Utility Law Judge, November 4, 2011, at 23.

1 mobile DA applications. Their adeptness with and predilection for “higher-tech” DA
2 alternatives should not be relied upon to make DA policy for *all* households.

3
4 The lack of knowledge, comfort with technological alternatives, and income may be
5 particularly acute in some segments of the population. Some elderly may not wish to use
6 these alternatives and should not be forced to do so. Other households may not be able to
7 afford wireline or wireless broadband access to Web-based services. Consumers should not
8 be penalized for their lack of high-tech alternatives.

9 **Q: What were the Board’s most recent findings regarding classification of DA services?**

10 **A:** In 2007, the Board denied Verizon NJ’s request to reclassify DA services as competitive.²⁰⁷

11 In its decision, the Board observed:

12 While the Board has acknowledged the presence of competitors, *whether an*
13 *alternative is a like or substitute service is critical.* Access to directory
14 information must be widely available, of the same quality as that produced by
15 Verizon and not requiring anything other than a basic telephone to access.
16 For residential DAS, the alternatives presented do not satisfy the criteria
17 related to the availability of like or substitute services.²⁰⁸

18
19 Although in the intervening period, more customers have come to rely on alternative DA
20 services, the fact still remains that to a significant segment of consumers, ILEC-provisioned
21 DA service retains unique characteristics that are not satisfied by alternative services.

²⁰⁷ / *In The Matter of The Board’s Review Of The Classification Of Verizon New Jersey Inc.’s Directory Assistance Services As Competitive*, Docket Nos. TX06010057 and TT97120889, Telecommunications Order (NJ BPU June 28, 2007) (“*DA Reclassification Order*”). See also *DA Reclassification* proceeding, Docket Nos. TX06010057 and TT97120889, *Reply Testimony of Susan M. Baldwin on Behalf of the New Jersey Division of Ratepayer Advocate*, filed May 12, 2006, in which Ms. Baldwin addressed many of the same issues discussed herein.

²⁰⁸ / *DA Reclassification Order*, at 17 (emphasis added).

1 **Q: Is the availability of alternatives the Board's only consideration in deciding whether or**
2 **not to reclassify?**

3 A: No. As the Board made clear in its 2007 DA Reclassification Order, "The overarching
4 responsibility that rests with the Board is to balance the need of the customer and the utility.
5 The public interest must weigh heavily in cases where a service is being granted competitive
6 status."²⁰⁹

7 **Q: Don't consumers that lack access to higher-technology alternatives still the option of**
8 **looking up a number "the old fashioned way" – in a paper directory?**

9 A: Paper directories do not provide consumers with a like or substitute service to the
10 instantaneous, straightforward access to up-to-date, comprehensive directory listings that
11 "411" DA provides. Paper directories are primarily local directories (*i.e.*, they provide
12 listings for a customer's local calling area), whereas Verizon NJ's "local" DA provides
13 numbers for listings throughout an entire LATA. Furthermore, paper directories are
14 typically updated only once a year; by contrast, additions to and deletions from Verizon's
15 DA database occur every day.

16 **Q: Please address computer-based alternatives.**

17 A: It is increasingly common for people to use a computer to look up telephone numbers using
18 the Internet. However, as the Board previously concluded, alternatives to Verizon NJ's DA

²⁰⁹ / *DA Reclassification Order*, at 18.

1 services that require additional equipment, in this case a computer and Internet connection,
2 cannot be considered like or substitute services.²¹⁰ The Board also stated,

3 Available alternatives must in fact be legitimate substitutes for residential
4 customers and not for just a select group of consumers who have the
5 knowledge, equipment, and expertise to seek them out.²¹¹
6

7 Despite some increases in the prevalence of wireline and wireless broadband Internet
8 access in the several years since the Board made these findings, the observation is
9 still equally true with respect to today's consumers. Computer-based directory
10 resources also tend to be national databases, updated less frequently and based on
11 less reliable data sources than the ILECs' DA.

12 **Q: Please describe the prevalence of broadband use in New Jersey.**

13 A: In New Jersey, using the definition of broadband as 200 kbps in at least one direction, 22%
14 of households do not subscribe to fixed broadband. Using the definition of at least 3Mbps in
15 one direction, 31% of households do not subscribe to broadband service.²¹² These
16 households, then, cannot rely on broadband-based access to DA alternatives.

17 **Q: Please elaborate on the lack of broadband Internet access as a method for obtaining
18 alternative DA service for low-income customers.**

19 A: Subscription to broadband Internet services varies directly by income level. The FCC's most
20 recent Internet Access Services Report shows a steady increase in subscribership from the

²¹⁰ / *Id.*, at 17.

²¹¹ / *Id.*, at 18.

²¹² / FCC, Internet Access Services: Status as of December 31, 2010, released October 2011, at Tables 15 and 16. Both tables use 3,192,000 as the total number of households in NJ.

1 lowest income decile to the highest. The median subscribership ratio for customers in the
2 lowest income decile was 36%, compared with 73% for subscribers in the top decile.²¹³

3 **Q: Does the familiar “411” dialing sequence for Verizon NJ DA still give it unique**
4 **advantages not available from other providers?**

5 **A:** Of course. As the Board previously found, “Consumer awareness of the alternatives is as
6 important as the availability of the service itself.”²¹⁴ When an alternative DA service must
7 be reached via a unique, less well-known access number, it will be at a disadvantage relative
8 to the incumbent’s well-known “411”. The reasons why the Board previously found that
9 Verizon’s 411 gives it a leg-up on competitors still hold true:

10 In reviewing the given alternatives, the Board believes “411” provides
11 Verizon with an extraordinary market advantage that skews the residential
12 DAS market in favor of Verizon. The significant advantage that Verizon’s
13 control over “411” provides is considered an obstacle of like or substitute
14 services, required by statute in order for a service to be deemed
15 competitive.²¹⁵

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18 **Implications of competitive classification.**

19 **Q: If the Board were to reclassify Verizon NJ and CenturyLink DA service as competitive,**
20 **what changes would they be free to make?**

21 **A:** They could, and likely would, eliminate the free (two call) allowance. The potential value of
22 taking away a \$3.00/month (\$36/year) benefit from the 1,649,000 primary residential lines

²¹³ / FCC, Internet Access Services, Status as of December 31, 2010, Chart 18: Subscribership Ratio Distribution by Income Deciles as of December 31, 2010. See also, *id.*, Charts 17, 19, 28.

²¹⁴ / *DA Reclassification Order*, at 19.

²¹⁵ / *Id.*, at 18.

1 served by ILECs in NJ would be over \$59 million.²¹⁶ Taking a more conservative view,
2 assuming no change in the current usage patterns (under which the vast majority of
3 customers actually make no DA calls) or in the per-call rate, the elimination of the call
4 allowance would provide Verizon NJ a more than <<<BEGIN [REDACTED]
5 [REDACTED] END CONFIDENTIAL >>> annual windfall.²¹⁷ Given that the DA allowance has
6 been a long-standing element of local exchange service, its elimination would effectively
7 result in a rate increase for residential consumers and be a revenue windfall for Verizon NJ.

8 **Q: Have you performed a similar calculation of “DA windfall revenues” that the**
9 **elimination of free DA calls would generate for CenturyLink?**

10 **A:** No. CenturyLink failed to provide the data necessary for this calculation. However,
11 elimination of free DA calls would also generate entirely new revenue for CenturyLink.

12 **Summary of findings and recommendations regarding directory assistance service.**

13 **Q: What do you conclude based on your analysis of DA markets?**

14 **A:** The status of competition is insufficient to justify classifying directory assistance (“DA”)
15 services as competitive. The purported alternatives to Verizon NJ’s DA are inferior: they
16 are less accurate, often higher-priced, entail significantly higher transaction costs, and,
17 unlike “411,” are not ubiquitously recognized. The ILECs’ unique control of the “411” code
18 continues to represent a formidable barrier to entry.

19 Obtaining familiarity with DA alternatives takes time and effort that many residential

²¹⁶ / 1,649,000 ILEC residential lines (per Table 6) * 2 calls * \$1.50 per call * 12 months. FCC Local Comp Report, at Table 9.

²¹⁷ / An average of <<<BEGIN CONFIDENTIAL [REDACTED] END CONFIDENTIAL >>> free DA calls per

1 customers may not find worthwhile to invest. Residential customers' demand for DA differs
2 from that for business customers: most use DA infrequently and are far less likely to invest
3 the time and resources to investigate alternatives.

4 It is also important to consider that the burden of reclassification will fall disproportionately
5 on segments of the population that may have the least ability to avail themselves of the
6 subset of alternative services that are available without an additional discrete charge. Even
7 such alternatives are not free, of course, because they are dependent on the consumer having
8 wired or wireless Internet access.

9 To date, the ILECs have resisted submitting cost data (and, in the case of CenturyLink,
10 revenue data) on their DA services. However, their ability to raise rates and history of so
11 doing is evidence of continuing market power and not of effective competition.

12 Because of its utility and the long-standing availability of a call allowance (albeit at a
13 diminishing quantity), consumers rightly perceive DA is an integral component of basic local
14 exchange service. Any change in the regulatory status of DA service that would permit
15 Verizon or CenturyLink to decrease the DA allowance would implicitly raise the rate for
16 residential consumers.

17 **Q: What then do you recommend regarding ILECs' DA service?**

18 **A:** The Board should

- 19 • Preserve the classification of residential DA service as a non-competitive service, so that
20 any proposed reduction in the two-free-call allowance and any per-call rate increase for

month * \$1.50 per call * 12 months. Verizon Confidential response to RC-VNJ-8.

1 additional calls remain subject to the review and approval of the Board;

- 2 • Direct Verizon NJ and CenturyLink to conduct a comprehensive customer notification
3 and education plan to increase customer awareness of competitive alternatives for DA,
4 targeting in particular customers who make 10 or more DA calls, subject to Board and
5 Rate Counsel review.

- 6 • If the Board, contrary to our recommendation, classifies Verizon NJ's DA as
7 competitive, the Board should:

- 8 ○ Continue to protect the DA two-call allowance as an integral component of basic
9 service;
10 ○ Require Verizon NJ to reduce basic local exchange service rates to offset any
11 new revenue stream associated with any increase to residence DA; and
12 ○ Require the customer education initiative described above.

13 **Conclusion**

14 **Q: Does this conclude your testimony?**

15 **A: Yes.**

RC-CLEC SURVEY

	COMPANY NAME	RESIDENTIAL		BUSINESS	
		BASIC ONLY	BUNDLE	SMALL	ENTERPRISE
1.	4 Connections, LLC	NO	NO	Bundled service offerings : <ul style="list-style-type: none"> • 50 employee \$19.98 p/e - p/month • 75 employees \$24.65 p/e – p/month • 100 employees \$24.99 p/e – p/month 	
2.	ALEC, Inc. d/b/a/ ALEC of Kentucky, Inc.	NO	NO	NO	NO
3.	A T & T Communications of New Jersey LP	U-verse voice plan minutes from \$25 to \$40 /monthly & Various bundles: From \$39.95/monthly to \$89/monthly. NO NEW RESIDENTIAL CUSTOMERS.		Most revenue from long distance.	
4.	AboveNet Communications, Inc.	NO	NO	Offers only network solutions – no retail.	
5.	Access Point, Inc.	NO			
6.	ACN Communications Services, Inc.		3 plans: \$26.99/mo; \$30.99/mo; \$48.99/mo Various long distance & vertical feature plans.	Only in Michigan & Ohio	
7.	Advanza Telecom Inc.	NO	NO		
8.	Airespring, Inc.	NO	Toll & Long Distance only.		
9.	American Dial Tone				
10.	American Network Services, Inc.	Offers Only Wireless Infrastructure Solutions.			
11.	A.R.C. Networks Inc. d/b/a/ Infohighway	Now serviced through BroadView Networks, Inc. who is a Voice over IP solutions provider for Business Customers Only also wholesaler to carriers.			
12.	ATC Outdoor DAS, LLC	Offers only wireless infrastructure solutions.			

RC-CLEC SURVEY

	COMPANY NAME	RESIDENTIAL		BUSINESS	
		BASIC ONLY	BUNDLE	SMALL	ENTERPRISE
13.	ATX Licensing, Inc.	NO	NO	Now serviced through BroadView Networks, Inc. who is a Voice over IP solutions provider for Business Customers Only also wholesaler to carriers.	
14.	Bandwidth.com CLEC, LLC	NO	NO		
15.	BCN Telecom, Inc.	NO	YES Bundles only.		
16.	Bellerud Communications	Lifeline Only	NO	NO	NO
17.	Big River Telephone Company, LLC	NO	NO	T1	
18.	Birch Communications, Inc.	NO	NO	YES \$52.30 Bundle Business Only. See also American Fiber Network & Close Call America.	
19.	BLC Management, LLC	NO	NO	NO	NO
20.	BridgeCom International, Inc.	NO	NO	NO Serviced thru Broadview Networks - Voice over IP solutions for Business Customers Only also wholesaler to carriers.	
21.	Broadband Centric Corporation	NO	YES bundled residential	YES bundled business	SEE BPU PDF Tariff of 11/25/2006
22.	Broadview Networks, Inc.	NO	NO	Voice over IP solutions for Business Customers Only also wholesaler to carriers.	
23.	Broadview NP Acquisition Corp.	NO	NO	See Broadview Networks - Voice over IP solutions for Business Customers Only also wholesaler to carriers.	

RC-CLEC SURVEY

	COMPANY NAME	RESIDENTIAL		BUSINESS	
		BASIC ONLY	BUNDLE	SMALL	ENTERPRISE
24.	Broadvox - CLEC, LLC	NO	NO	YES	
25.	Broadwing Communications, LLC			Serviced through Level3 Communication – Generally Business Only	
26.	Budget Prepay, Inc.	NO	3 prepaid home phone plans	NO	NO
27.	BullsEye Telecom, Inc.	NO	NO	NO	YES ENTERPRISE ONLY Packages start at \$175.67 to \$244.67
28.	Business Automation Technologies, Inc.	NO	NO	YES	YES Serviced thru EarthLink
29.	Business Telecom, Inc.	NO	NO	YES	YES Serviced thru EarthLink
30.	Cablevision Lightpath of New Jersey, Inc.	NO	YES	YES	
<div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;"> Bundled packages ONLY: TV, Phone & Internet starting @ \$29.99 p/m /per each + 1 yr contract to \$19.99 p/m /per each. </div>					
31.	Cavalier Telephone Mid-Atlantic, LLC	NO No longer accepting residential customers.	NO	YES	YES
32.	Cbeyond communications LLC	NO	NO	NO	NO
33.	City Broadband Wireless, LLC	NO	NO	NO	NO
34.	CLM Telcom LLC	NO	NO	NO	NO

RC-CLEC SURVEY

	COMPANY NAME	RESIDENTIAL		BUSINESS	
		BASIC ONLY	BUNDLE	SMALL	ENTERPRISE
35.	Comcast Business Communications, Inc.	NO	YES \$19.99 p/month for 6 months; ALSO: Double-play:\$69.99 p/month for 12 months; Triple -play @ \$99 p/m for 12 months		
36.	COMTECH21, LLC	NO	YES - Packages starting at \$24 to \$29.00 with some vertical features at extra cost.	YES	YES
37.	Conversent Communications of NJ, LLC	NO	NO	NO	Serviced thru EarthLink- ENTERPRISE ONLY.
38.	Cooperative Communications, Inc.	NO	NO	BUSINESS ONLY. [probably large business only]. <ul style="list-style-type: none"> • \$14.46 + • \$3 PIC charge p/month + • \$5 paper bill charge + \$0.06 charge on gross revenues as regulatory recovery fee. 	
39.	CoreTel New Jersey, Inc.	NO	NO	Provides service to Carriers ISPs and ASPs [DS0 Port rate not to exceed \$29.00 per month/ per port with 10 port minimum or SuperPort DS0 rate Plan of \$150 for 100 port volume w/ 3 year commitment.	
40.	CornerStone Telephone Company, LLC	NO	NO	YES	YES ..\\..\\..\\Desktop\\Cornerstone nj_clec_tariff.pdf
41.	Covista Inc.	NO	NO	YES	YES

RC-CLEC SURVEY

	COMPANY NAME	RESIDENTIAL		BUSINESS	
		BASIC ONLY	BUNDLE	SMALL	ENTERPRISE
42.	Crexendo Business Solutions, Inc.	NO	NO	YES 4 different plans for small to large businesses. Bundled offerings with annual subscription on all plans starting from 12.95 monthly to 49.95 monthly. [businesses with 1 to 200 lines].	
43.	CTC Communications Corporation	NO	NO	NO	YES - ENTERPRISE ONLY
44.	Cypress Communications Operating Company, Inc.	NO	NO	Business only - VoIP telephony.	
45.	DIECA Communications, Inc.				
46.	DigitalSpeed Communications, Inc.	NO	NO	Business only	
47.	Digizip.com, Inc.	NO	NO	Business only	
48.	dPi Teleconnect, LLC	NO	Prepaid phone \$29.99 bundles.	NO	NO
49.	DSCI Corporation	NO	NO	NO	Managed telephone service ENTERPRISE ONLY
50.	DSLnet Communications, LLC	NO	NO	YES	YES: serviced through megapath.com
51.	DynaLink Communications Inc.	Dynalink provides the following service in NJ: PRI, IA, Pots, DSL, DIA, EoC, MPLS, PTP <u>Standard pricing:</u> Pots: \$16.99 PRI: \$299 DSL: 1.5/768: \$79.99+			

RC-CLEC SURVEY

	COMPANY NAME	RESIDENTIAL		BUSINESS	
		BASIC ONLY	BUNDLE	SMALL	ENTERPRISE
52.	EC-Eye Communications and Technology, Inc.	NO	NO	Business Only. Integrated long distance VoIP technology.	
53.	Enhanced Communications Network, Inc.	YES \$24.95		YES. \$24.95 + \$15.00 each addit'l line.	
54.	Enteleagent Solutions, Inc.	NO	NO		
55.	Eureka Telecom, Inc.	NO	NO	NO	NO
56.	ExteNet Syatems, Inc.	Wireless infrastructure provider only.		Wireless infrastructure provider only.	
57.	Everycall Comm., Inc. d/b/a/Local USA d/b/a/All Am.	NO	NO	NO	NO
58.	Fiber Technologies Networks, LLC	NO	NO	NO Clifton, Dan [dclifton@fibertech.com] Thanks for your interest in Fibertech. We do not offer phone or voice service, we are a fiber optic connectivity provider.	
59.	First Communications, LLC	NO	NO	NO	YES
60.	Global Crossing Local Services, Inc.	NO	NO	NO	YES Serviced through Level3.
61.	Global Crossing North American Networks, Inc.	NO	NO	NO	NO
62.	GOES Telecom, Inc.	NO	Provider of bundled services ONLY	YES	NO
63.	Granite Telecommunicati ons, LLC	NO	NO	POTS Business Only wholesale thru Verizon \$16 on 1 st Biz/ln and \$13 on 2 nd biz/ln and up.	

RC-CLEC SURVEY

	COMPANY NAME	RESIDENTIAL		BUSINESS	
		BASIC ONLY	BUNDLE	SMALL	ENTERPRISE
64.	Hotwire Communications, Ltd	NO	YES	YES	
		Internet/Cable/Phone Bundled Plans – Residential & Business. See BPU PDF Tariff of 4/29/2007			
65.	Hudson Fiber Network, Inc.	NO	NO	NO	NO
66.	Hypercube Telecom, LLC	NO	NO	NO	NO Wholesale CLEC ONLY
67.	IBC Telecom Corp.	NO	NO	NO	NO
68.	InContact d/b/a/UCN, Inc.	YES \$34.95 Local Exchange DialTone Service. BPU Tariff dated 8/2006.	YES BUNDLES \$44.95 Basic Local Service package 3 vertical features only Caller ID, Call waiting & 3-way calling.	NO	NO
69.	IDT America Corporation	NO	NO	YES: IDT America Choice Service Plan \$28..95 p/ln p/month. IDT America Plan \$21.95 p/ln p/month.	
70.	Infinite Communications, LLC	NO	NO	NO	ENTERPRISE ONLY
71.	Infotelecom, LLC	NO	NO	NO	NO
72.	Intellifiber Networks	NO	NO	YES: Business Only \$19.39 w/75 local message units addit'l units @ \$0.89 p/message unit. BPU Tariff dated 2010.	
73.	IntelePeer, Inc.	NO	NO	NO	YES Service provider to other carriers and enterprise customers.

RC-CLEC SURVEY

	COMPANY NAME	RESIDENTIAL		BUSINESS																																																																																																						
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74.	Interglobe Communications, Inc.	NO	YES	YES																																																																																																						
<p>MANAGED COMMUNICATIONS ONLY - BPU Tariff 2002 rates</p> <p>RESIDENTIAL: <u>Rate Group</u> <u>Flat rate 1st line</u> / <u>Flat Rate Addit'l Ln</u> / <u>Message Low</u></p> <table> <tr> <td><u>Use/</u></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>A</td> <td>6.75</td> <td>6.25</td> <td>4.40</td> <td></td> </tr> <tr> <td>B</td> <td>7.45</td> <td>6.95</td> <td>4.90</td> <td></td> </tr> <tr> <td>C</td> <td>7.95</td> <td>7.45</td> <td>5.20</td> <td></td> </tr> <tr> <td>D</td> <td>8.19</td> <td>7.69</td> <td>5.39</td> <td></td> </tr> </table> <p>Note: message units = 75 and low usage = 20 units</p> <p>BUSINESS: Message rates All Groups \$12.00 (Main Line)</p> <table> <tr> <td><u>Rate Group</u></td> <td><u>Addit'l lines</u></td> <td><u>Message Rates</u></td> </tr> <tr> <td>A</td> <td>5.44</td> <td></td> </tr> <tr> <td>B</td> <td>5.99</td> <td></td> </tr> <tr> <td>C</td> <td>6.39</td> <td></td> </tr> <tr> <td>D</td> <td>6.58</td> <td></td> </tr> </table> <p><u>Rate Group</u> <u>PBX Flat rate Trunk</u> / <u>DID Trunk</u> / <u>DID Addit'l Per Line</u></p> <table> <tr> <td>A</td> <td>22.82</td> <td>10.90</td> <td>6.36</td> </tr> <tr> <td>B</td> <td>25.24</td> <td>12.12</td> <td>7.52</td> </tr> <tr> <td>C</td> <td>N/A</td> <td>13.18</td> <td>8.08</td> </tr> <tr> <td>D</td> <td>N/A</td> <td>13.37</td> <td>8.27</td> </tr> </table> <p>DID Trunk Additive all 4 Groups additional \$38.97 p/month.</p> <p>Optional Calling Features Separate Monthly Charge:</p> <table> <thead> <tr> <th></th> <th><u>Residential</u></th> <th><u>Business</u></th> </tr> </thead> <tbody> <tr> <td>Call waiting</td> <td>4.59</td> <td>7.65</td> </tr> <tr> <td>Call Forward</td> <td>2.30</td> <td>2.69</td> </tr> <tr> <td>3-Way calling</td> <td>2.30</td> <td>2.66</td> </tr> <tr> <td>Caller ID</td> <td>6.55</td> <td>8.50</td> </tr> <tr> <td>Caller ID Deluxe</td> <td>7.50</td> <td>9.50</td> </tr> <tr> <td>Remote calling Forward</td> <td>14.66</td> <td>14.66</td> </tr> <tr> <td>Speed Call</td> <td>3.43</td> <td>3.84</td> </tr> <tr> <td>Call Forward Busy Signal</td> <td>2.00</td> <td>2.00</td> </tr> <tr> <td>Call Forward Don't Answer</td> <td>2.00</td> <td>2.00</td> </tr> <tr> <td>Call Block</td> <td>4.04</td> <td>6.04</td> </tr> <tr> <td>Call return</td> <td>4.00</td> <td>6.00</td> </tr> <tr> <td>Repeat Dialing</td> <td>2.00</td> <td>6.00</td> </tr> <tr> <td>Preferred Call Forwarding</td> <td>4.04</td> <td>6.06</td> </tr> <tr> <td>Remote Access Call Forwarding</td> <td>5.00</td> <td>7.00</td> </tr> </tbody> </table>						<u>Use/</u>					A	6.75	6.25	4.40		B	7.45	6.95	4.90		C	7.95	7.45	5.20		D	8.19	7.69	5.39		<u>Rate Group</u>	<u>Addit'l lines</u>	<u>Message Rates</u>	A	5.44		B	5.99		C	6.39		D	6.58		A	22.82	10.90	6.36	B	25.24	12.12	7.52	C	N/A	13.18	8.08	D	N/A	13.37	8.27		<u>Residential</u>	<u>Business</u>	Call waiting	4.59	7.65	Call Forward	2.30	2.69	3-Way calling	2.30	2.66	Caller ID	6.55	8.50	Caller ID Deluxe	7.50	9.50	Remote calling Forward	14.66	14.66	Speed Call	3.43	3.84	Call Forward Busy Signal	2.00	2.00	Call Forward Don't Answer	2.00	2.00	Call Block	4.04	6.04	Call return	4.00	6.00	Repeat Dialing	2.00	6.00	Preferred Call Forwarding	4.04	6.06	Remote Access Call Forwarding	5.00	7.00
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RC-CLEC SURVEY

	COMPANY NAME	RESIDENTIAL		BUSINESS	
		BASIC ONLY	BUNDLE	SMALL	ENTERPRISE
75.	International Telecom, Ltd.	NO	NO	YES	Enhanced Telecommunications Service Provider – Probably Mostly Long Distance .
76.	Level 3 Communications, LLC	NO	NO	YES	YES
77.	Lexent Metro connect, LLC	NO	NO	NO	NO
78.	LifeConnex Telecom, LLC	NO	NO	NO	NO
79.	Light Tower Fiber Long Island LLC	NO	NO	NO	ENTERPRISE ONLY Fiber provider only carrier to carrier .
80.	Lightship Telecom, LLC	YES \$12.66	YES 70 message units \$3.75 access recovery fee	NO	NO
81.	Lightyear Network Solutions, LLC	NO	NO	NO	BUSINESS/ENTERPRISE ONLY Partners w/other carriers.
82.	Line Systems, Inc.	NO	NO	NO	ENTERPRISE ONLY
83.	Lite Call, Inc.	NO	NO	NO	NO
84.	Magellan Hill Technologies, LLC	YES \$15.30 monthly pic charge \$3.85 regulatory recovery fee \$2.40 SEE BPU PDF Tariff 9/10 2006 for addit'l charges.	YES	YES \$15.30 + monthly pic charge \$3.85 + regulatory recovery fee \$2.40	
85.	Manhattan Telecommunications of NJ, Inc.	YES \$11.95 BPU Tariff dates to 2008	YES \$13.19 includes 5 features	YES Business 4 lines minimum \$20.89	YES

RC-CLEC SURVEY

	COMPANY NAME	RESIDENTIAL		BUSINESS	
		BASIC ONLY	BUNDLE	SMALL	ENTERPRISE
86.	Master Call Comm, Inc.	NO	Long Distance Only		
87.	Matrix Telecom, Inc.	NO	NO	BUSINESS ONLY bundled with long distance 4 group rates – all same T1 & above \$25.03	BPU Tariff dated from 2007
88.	Maxsip Telecom Corp.	NO	NO	NO	NO
89.	McGraw Communications, Inc.	NO	NO	NO	ENTERPRISE ONLY
90.	MCI Communications Services, Inc.	NO	NO	NO	NO
		Effective 5/1/2006 no longer serving residential & small business local exchange service. See BPU PDF Tariff of 8/1/2008			
91.	MCI Metro Access Trans.Service LLC	NO	NO	NO	NO
		Effective 5/1/2006 no longer serving residential & small business local exchange service. See above PDF. @ #90			
92.	MH Lightnet, Inc.	NO	Merged with Comcast Comcast offers bundled service only –Xfinity Voice --\$29.99/per each - 6mos unlimited w/ 12 calling features.		\$24.95 single line w/ metered LD to \$44.95 for unlimited local and LD an other features Pricing by consultation only.

RC-CLEC SURVEY

	COMPA NY NAME	RESIDENTIAL		BUSINESS	
		BASIC ONLY	BUNDLE	SMALL	ENTERPRISE
93.	MiTel Solutions, Inc.	NO	YES	YES	YES
		<p>Residential 4 rate classes 1 Line</p> <p>1) \$6.75 2) 7.45 3) 7.95 4) 8.19 w/\$1 touchTone</p> <p>Additional lines: \$10.65 - 12.96 w/ \$2.01 TouchTone</p> <p>Residential Message rates</p> <p>1) \$5.44 2) 5.99 3) 6.39 4) 6.58</p>		<p>SEE BPU PDF Tariff for business rate listings/info dated: 9/17/2008</p>	
94.	Momentum Telecom, Inc.	NO	YES.	YES. \$14.95 to 29.95 depending on features.	YES. Provides metered and unlimited.
95.	Monmouth Telephone & Telegraph, Inc.	NO	NO	YES Enhanced extended loop 1 st line \$10 and \$10 per addit'l line	YES T-1 & above \$240 monthly rate as per BPU Tariff dated 5/2000.
96.	Navigator Telecommuni cations, LLC	NO	NO	YES – tariff.	YES. Primary markets are Payphones, inmates, hospitals, restaurants, colleges.

RC-CLEC SURVEY

	COMPANY NAME	RESIDENTIAL		BUSINESS	
		BASIC ONLY	BUNDLE	SMALL	ENTERPRISE
97.	NEON Connect, Inc.	NO	NO	NO	NO
98.	NetCarrier Telecom, Inc.	NO	NO	YES connectivity solutions provider	YES In addition to its integrated voice and data solutions, NetCarrier offers traditional analog lines and trunks for businesses of all sizes.
99.	Net Talk.Com., Inc.	NO	NO	NO	NO
100.	Network Billing Systems, LLC	NO.	YES. NJ Tariff bundle rate.	YES: rate zones -- \$18.45 to \$21.99; Voice only circuits -- \$395 (source: on line tariff).	
101.	Neutral Tandem-New Jersey, LLC	NO.	NO.	NO	NO Carrier's carrier services.
102.	New Edge Networks, Inc.	NO. Now EarthLink Business	NO	YES	YES
103.	New Horizons Communications Corp.	NO.	NO.	YES	YES <div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 5px auto;">New Horizon Communications Group is a full-service provider of voice, data & Internet solutions for businesses only.</div>
104.	New Jersey DataNet Telecom, LLC	NO	NO	NO	NO <div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 5px auto;">Acquired by: Light Tower Fiber LLC Light Tower Fiber is a carrier backhaul provider. No direct end user service.</div>
105.	NexGen Communications, Inc.	NO	NO	NO	NO

RC-CLEC SURVEY

	COMPANY NAME	RESIDENTIAL		BUSINESS	
		BASIC ONLY	BUNDLE	SMALL	ENTERPRISE
106.	NextG Networks of NY, Inc.	NO.	NO	NO	NO
<div style="border: 1px solid black; padding: 5px; width: fit-content; margin: auto;"> Wireless backhaul solutions provider. Carrier to Carrier & Government ONLY. </div>					
107.	NextLink Wireless, Inc.	NO.	NO	NO	NO
<div style="border: 1px solid black; padding: 5px; width: fit-content; margin: auto;"> Wireless service ONLY. </div>					
108.	NJ-CLEC, LLC	NO.	NO.	NO	NO
<div style="border: 1px solid black; padding: 5px; width: fit-content; margin: auto;"> Wireless infrastructure provider ONLY. </div>					
109.	Northeastern ITS, LLC	NO	NO	NO	NO
110.	NOS Communications, Inc.	NO	NO	NO	NO
<div style="border: 1px solid black; padding: 5px; width: fit-content; margin: auto;"> CARRIER TO CARRIER / TOLL & LONG DISTANCE </div>					
111.	Optical Communications Group, Inc.	NO	NO	NO	ENTERPRISE ONLY FIBER PROVIDER ONLY
112.	Pac-West Telecomm, Inc.	NO	NO	NO	NO
113.	PAETEC Communications, Inc.	NO	NO	YES	YES
<div style="border: 1px solid black; padding: 5px; width: fit-content; margin: auto;"> Includes Cavalier, Talk America d/b/a Cavalier, Windstream US LEC. PAETEC's primary business is providing business end-user customers in metropolitan areas with a package of integrated broadband services that encompasses data services, including Internet access services and virtual private network services, and voice services, including local telephone services and domestic and international long distance services. As of September 30, 2011, PAETEC provided services for approximately 51,000 business customers in a service area encompassing 86 of the top 100 metropolitan statistical areas. </div>					

RC-CLEC SURVEY

	COMPANY NAME	RESIDENTIAL		BUSINESS	
		BASIC ONLY	BUNDLE	SMALL	ENTERPRISE
114.	Peerless Network of New Jersey, LLC	NO	NO	NO	Carriers carrier \$40 per line business only
115.	PNG Telecommunications, Inc.	NO.	YES. \$16.99; \$19.99 w/unlimited international LONG DISTANCE	NO	NO
116.	Public Wireless, Inc.	NO	NO	NO	NO
117.	Qwest Communications Company, LLC	NO	NO	NO	Interexchange only, no residential or business basic.
118.	QX Telecom, LLC	NO	LONG DISTANCE ONLY.		
119.	Reliance Globalcom Service Inc.	NO.	NO.	NO	Private line carrier.
120.	Reynwood Communications of NY/NJ, LLC	NO.	NO	YES IP BUSINESS ONLY.	YES. IP BUSINESS ONLY.
121.	RNK, Inc.	NO	NO	NO	CARRIER TO CARRIER SERVICES ONLY
122.	Service Electric Telephone Company, LLC	NO.	YES. \$39.95/mo	YES. T-1 & above service.	YES. T-1 & above service.
123.	Sidera Network f/n/a RCN NY Comm, LLC	NO	NO	NO	NO
124.	Smart Choice Communications. LLC	NO.	NO.	YES. <div style="border: 1px solid black; padding: 2px; width: fit-content; margin: 0 auto;">Carrier To Carrier</div>	YES.
125.	SpectroTel Inc.	YES	YES	YES	YES
		<div style="border: 1px solid black; padding: 5px;">Provides Residential & Business [BPU tariff 8/27/2010] See PDF Tariff</div>			
126.	Sprint Communications Company, L. P.	NO	NO	YES Multi-line only 4 lines \$20.38.	YES

RC-CLEC SURVEY

	COMPANY NAME	RESIDENTIAL		BUSINESS	
		BASIC ONLY	BUNDLE	SMALL	ENTERPRISE
127.	Sterling Telecom, Inc.	NO	NO	YES	YES
				BUSINESS ONLY / RESALE VERIZON	
128.	Sunesys, LLC	NO	NO	NO	NO
				DARK FIBER ONLY	
129.	Talk America, Inc.	NO	NO	YES	YES
				SEE CAVALIER No longer accepting residential customers.	
130.	TalkSpan, Inc.	NO	NO	YES	YES
131.	TCG New Jersey, Inc.	NO	NO	NO	NO
				No longer accepting new customers.	
132.	TelCove Operations, LLC	NO	NO	NO	YES LEVEL 3 SUBSIDIARY – ENTERPRISE ONLY
133.	Teleconnect Long Distance Systems & Services Co., Inc.	NO			
				LONG DISTANCE ONLY	
134.	Teleport Communications New York	NO	NO	NO	NO
				No longer accepting new customers.	
135.	Telscape Communications, Inc.	NO	NO	NO	NO
136.	THINK 12 CORPORATION	NO	NO	NO	NO
137.	Time Warner Cable Info. Srvcs, LLC	NO	NO	NO	NO

RC-CLEC SURVEY

	COMPANY NAME	RESIDENTIAL		BUSINESS	
		BASIC ONLY	BUNDLE	SMALL	ENTERPRISE
138.	TouchTone Communications Inc.	NO	YES BUNDLES ONLY \$24.99	NO	NO
139.	Trans National Communications Intl, Inc.	NO	NO	YES SMALL-MEDIUM BUSINESS – SERVICES ABOVE T1	NO
140.	Transbeam, Inc.	NO	NO	NO	YES ENTERPRISE ONLY SEE BPU PDF Tariff 9/10/2006
141.	Triarch Marketing, Inc.	NO	NO	NO	NO
142.	TruCom Corporation	NO	NO	NO	NO
143.	TTM Operating Corp., Inc.	NO	NO	NO	NO
144.	Time Warner Cable Info Services (NJ), LLC	NO	NO	NO	NO
145.	TW Telecom of NJ, L.P.	NO	NO	YES Business \$32.75	
146.	US LEC of Pennsylvania, Inc.	NO	NO	YES	YES

Includes Cavalier, Talk America d/b/a Cavalier, Windstream US LEC.
 PAETEC's primary business is providing business end-user customers in metropolitan areas with a package of integrated broadband services that encompasses data services, including Internet access services and virtual private network services, and voice services, including local telephone services and domestic and international long distance services. As of September 30, 2011, PAETEC provided services for approximately 51,000 business customers in a service area encompassing 86 of the top 100 metropolitan statistical areas.

RC-CLEC SURVEY

	COMPANY NAME	RESIDENTIAL		BUSINESS	
		BASIC ONLY	BUNDLE	SMALL	ENTERPRISE
147.	United Telephone Company of New Jersey, Inc.	YES \$15.45		YES \$25.50	NO
148.	Verizon New Jersey, Inc.	YES \$16.45		YES \$25.50 - SLB	
149.	Voda Networks, Inc.	Appears to Only provide business as per [Internet Information] Note: BPU Tariff dated 1/30/2008 provided residential: See Tariff PDF for more information.			
150.	VoxNet, LLC	NO	NO	YES VoxNet only offers Business.	
151.	Warwick Valley Telephone Company	YES Resident'l Stand-alone \$10.80 + SLIC or EUCL @ \$6.50.	YES 3 Residential Bundled pkgs Include array of call features + local/regional & L/D : \$27.95, \$28.95 & \$34.95	YES Business Standalone: \$15.80 + SLIC or EUCL @ \$6.50 for single line. Business Bundle: \$29.95 incl. call features + local regional & long distance.	YES

RC-CLEC SURVEY

	COMPANY NAME	RESIDENTIAL		BUSINESS	
		BASIC ONLY	BUNDLE	SMALL	ENTERPRISE
152.	Wholesale Carrier Services, Inc.	NO	NO	NO	Wholesale Carrier Services Inc. carrier to carrier services ONLY.
153.	WiTel Communications, LLC	NO	NO	NO	NO
		<ul style="list-style-type: none"> • Williams is wireless only. Operated by [WiTel] • Part of Level 3 • WiTel NO in each category. <p>WiTel Communications Group, Inc. provides Internet, data, voice, and video services. WiTel operates in two segments: Network and Vyvx. Network's products and services fall into eight categories: Packet-based data services, Private line services, Voice services, Optical wave services, Backhaul services, Dark fiber and conduit rights, Collocation services, and Managed Services. Network's customers include regional Bell operating companies, cable television companies, Internet service providers, application service providers, data storage service providers, managed network service providers, digital subscriber line service providers, long distance carriers, local service providers, utilities.</p>			
154.	Xchange Telecom	YES Exchange resident'l \$13.19 to \$15.77 four zones. No bundle. Prepaid resident'l at \$49.95 No bundles.	NO	YES Business four zones 12.65 to \$14.96 no bundles. SEE BPU PDF Tariff dated 3/29/2006 for more rate information.	NO

RC-CLEC SURVEY

	COMPANY NAME	RESIDENTIAL		BUSINESS	
		BASIC ONLY	BUNDLE	SMALL	ENTERPRISE
155.	XO Communications Services, Inc.	NO	NO	YES	YES
		<p>XO New Business customers pay single line business is \$29.95 stand alone, and multi line business pay \$29.52 per line. Does not include unlimited toll and long distance and local is limited to 75 message units.</p> <p>We are a leading nationwide facilities-based, competitive telecommunications services provider that delivers a comprehensive array of telecommunications solutions to business customers, government agencies, telecommunications carriers and service providers, as well as internet content providers. We strive to be the trusted, high value provider of broadband solutions to mid-market, enterprise and carrier customers.</p>			
156.	XTel Communications, Inc.	NO	NO	NO	NO
		<p>XTel provides no residential, no business -a NJ company, no tariff on file and only appears to be a carrier to carrier provider.</p>			
157.	Ymax Communications Corp.	NO	NO	NO	NO
		<p>NO RESIDENTIAL SERVICE Ymax is: MAJIC-JACK ONLY ACCESS</p>			
158.	Zayo Group	NO	NO	NO	YES Enterprise ONLY