

information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before September 3, 2002. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commission, Room 1-A804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s) contact Les Smith at 202-418-0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060-0532.

Title: Scanning Receiver Compliance Exhibit, Sections 2.1033(b)(11) and 15.121.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households; not-for-profit institutions; business or other for-profit entities; and State, Local or Tribal Government.

Number of Respondents: 40.

Estimated Time per Response: 1 hour.

Frequency of Response: On occasion reporting requirement; Third party disclosure.

Total Annual Burden: 40 hours.

Total Estimated Cost: \$2,000.

Needs and Uses: The FCC rules under 47 CFR 2.1033(b)(11) require manufacturers of scanning receivers to design their equipment so that: it has 38 dB of image rejection for Cellular Service frequencies, tuning, control, and filtering circuitry are inaccessible, and any attempt to modify the scanning receiver to receive Cellular Service transmissions will likely render the scanning receiver inoperable. The Commission also requires manufacturers to submit information with any application for certification that describes: the testing method used to determine compliance with the 38 dB image rejection ratio, the design features that prevent modification of the

scanning receiver to receive Cellular Service transmissions, and the design steps taken to make tuning, control, and filtering circuitry inaccessible. Furthermore, the FCC requires equipment to carry a statement assessing the vulnerability of the scanning receiver to modification and to have a label affixed to the scanning receiver, similar to the following:

Warning: Modification of this device to receive cellular radiotelephone service signals is prohibited under FCC Rules and Federal Law.

OMB Control Number: 3060-0329.

Title: Equipment Authorization—Verification, 47 CFR 2.955.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Not-for-profit institutions; business or other for-profit entities; and State, Local or Tribal Government.

Number of Respondents: 5,655.

Estimated Time per Response: 18 hours (avg.).

Frequency of Response: On occasion reporting requirement; Third party disclosure.

Total Annual Burden: 101,790 hours.

Total Estimated Cost: \$1,131,000.

Needs and Uses: Under certain sections of Part 15 and Part 18 of the Commission rules, manufacturers are required to gather and retain technical data to verify that the equipment being marketed complies with established technical standards and FCC regulations and that the operation of the equipment is consistent with the initially documented test results. The information is essential to controlling potential interference to radio communications.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

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FEDERAL COMMUNICATIONS COMMISSION

[WC Docket No. 02-67; FCC 02-189]

Application by Verizon New Jersey Inc., Bell Atlantic Communications, Inc., (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions), Verizon Global Networks Inc., and Verizon Select Services Inc., Pursuant to Section 271 of the Telecommunications Act of 1996, for Provision of In-Region, InterLATA Services in the State of New Jersey

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In the document, the Federal Communications Commission grants the section 271 application of Verizon New Jersey Inc., *et al.* (Verizon) for authority to enter the interLATA telecommunications market in the state of New Jersey. The Commission grants Verizon's application based on its conclusion that Verizon has satisfied all of the statutory requirements for entry, and opened its local exchange markets to full competition.

DATES: Effective July 3, 2002.

FOR FURTHER INFORMATION CONTACT:

Alexis Johns, Attorney Advisor, Wireline Competition Bureau, at (202) 418-1580, or via the Internet at ajohns@fcc.gov. The complete text of this Memorandum Opinion and Order is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC 20554. Further information may also be obtained by calling the Wireline Competition Bureau's TTY number: (202) 418-0484.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order (MO&O) in WC Docket No. 02-67, FCC 02-189, adopted June 24, 2002 and released June 24, 2002. This full text may be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail qualexint@aol.com. It is also available on the Commission's website at http://www.fcc.gov/Bureaus/Wireline_Competition/in-region_applications.

Synopsis of the Order

1. *History of the Application.* On March 26, 2002, Verizon New Jersey Inc., *et al.*, filed its second application with the Commission to provide inter-region, interLATA service in New Jersey (NJ II). Although Verizon initially filed a section 271 application for New Jersey with this Commission on December 20, 2001 (NJ I), that application was withdrawn on March 19, 2002, as a result of "process concerns" that were raised with respect to certain pricing matters.

2. *The New Jersey Board of Public Utilities' (New Jersey Board) Evaluation.* The New Jersey Board conducted an extensive proceeding to facilitate competition in local exchange markets in which it approved and finalized a new Incentive Plan and conducted a lengthy pricing proceeding. Consequently, it recommended that the Commission grant Verizon's section 271 application for New Jersey.

3. *The Department of Justice's Evaluation.* The Department of Justice filed its evaluation of Verizon's New Jersey Application on April 15, 2002. It recommended approval of the application subject to the Commission's review of Verizon's checklist compliance for certain pricing and operation support systems (OSS) issues.

Primary Issues in Dispute

4. *Compliance with Section 271(c)(1)(A).* Section 271(c)(1)(A) (Track A) requires the presence of facilities-based competitors serving both residential and business customers. The Commission concludes that Verizon satisfies the requirements of Track A in New Jersey. Verizon relies on interconnection agreements with MetTel, eLEC, and Broadview in support of its Track A showing, and the Commission finds that each of these carriers serves more than a *de minimis* number of end users predominantly over its own facilities and represents an "actual commercial alternative" to Verizon in New Jersey. Verizon notes that each of these carriers has increased the number of residential lines it serves since the time Verizon filed its NJ I application. Also, the New Jersey Board has stated its intention to take additional measures to further encourage local entry by competitors of Verizon New Jersey, if necessary.

5. *Checklist Item 2—Unbundled Network Elements: Pricing and OSS.* Based on the evidence in the record before us for this application, the Commission finds that Verizon's UNE rates in New Jersey are just, reasonable, and nondiscriminatory, and are based

on cost plus a reasonable profit as required by section 252(d)(1). Thus, Verizon's UNE rates in New Jersey satisfy checklist item two.

6. *Pricing.* Verizon filed its first application to provide interLATA service in New Jersey before the New Jersey Board had issued its final order on rates for unbundled network elements (UNEs). On day 76 of the NJ I proceeding, the New Jersey Board released its Final UNE Rate Order. On day 89 of the NJ I proceeding, Verizon notified the Commission that it was withdrawing its application as a result of "process concerns" that were raised with respect to the non-recurring charge for performing a hot cut. The next day, Verizon informed the New Jersey Board that, effective immediately, it would reduce the effective hot cut rate in New Jersey to the same level —\$35— that was recently made effective in New York. On March 26, 2002, Verizon filed its second application to provide interLATA service in New Jersey. Both the Department of Justice and the New Jersey Board recommended approval of the NJ II application, although commenters reiterated pricing concerns from the NJ I application and also raised new pricing issues.

7. WorldCom contends that the New Jersey Board incorrectly approved Verizon's fiber/copper feeder and fill factor percentages. WorldCom disagrees with Verizon's assumption that 60 percent of feeder will be served on fiber cable with integrated digital loop carrier (IDLC) and that the remaining 40 percent served on copper feeder. The New Jersey Board considered this very issue and approved Verizon's 60/40 split between fiber and copper feeder. WorldCom presents no arguments or evidence that would cause us to find that these assumptions are inconsistent with TELRIC principles as applied to Verizon in New Jersey. WorldCom also claims that the New Jersey Board approved unreasonably low fill factors for fiber and copper cable, which allegedly results in overstated loop costs. The Board-approved fill factors are not inconsistent with those that the Commission has approved in prior section 271 orders, and the Commission finds no TELRIC errors in the New Jersey Board's analysis of Verizon's fill factors.

8. The NJDRA and WorldCom allege that Verizon improperly "double charges" for calls that both originate and terminate on the same switch. The commenters claim that Verizon should be allowed to charge only once for such intra-switch calls. Verizon's methodology is not inconsistent with our handling of this issue in prior

applications. No commenter argues that the manner in which Verizon developed its switching rates is inconsistent with the manner in which Verizon imposes these rates. The Commission therefore rejects commenters' claims that charging both an originating and a terminating rate for every call, regardless of the number of switches involved, is by itself inappropriate or a violation of TELRIC.

9. WorldCom and AT&T also challenge Verizon's inclusion of vertical features in the switching rate. They argue that non-usage-sensitive elements, such as vertical features, should be included with the port charge and not charged on a per-minute basis. No commenter has stated that vertical features are provided over wholly dedicated facilities, nor have they provided evidence that the per-minute charge is inconsistent with the manner in which costs are incurred. Under our rules, the New Jersey Board could have properly directed Verizon to recover the costs of vertical features as part of flat-rated port charges, split the costs between the flat and per-minute switch elements, or recover the costs through the per-minute charge. The New Jersey Board's decision to allow the recovery of such costs in the per-minute switching rate fully complies with our rate structure rules. The Commission finds no TELRIC error in the New Jersey Board's handling of the vertical features costs issue.

10. WorldCom also claims that Verizon has overstated its switching costs by using an inappropriate switch vendor discount. The New Jersey Board directed Verizon to compute its switching costs as if 79.4 percent of the switches would receive the discount for purchases of new switches and 20.6 percent would receive the discount for purchases of growth switches. The Commission concludes that this issue is a fact-specific inquiry amenable in the first instance to determination by the state commissions; it is not a bright-line rule. The Commission has been presented with no evidence or rationale, beyond bare assertions, that would persuade us that the split chosen by the New Jersey Board amounts to a TELRIC error. It is satisfied that the New Jersey Board carefully evaluated this issue, properly rejected Verizon's proposed use of 100 percent growth switches, and validly established what it considered to be more appropriate and state-specific switching discounts.

11. WorldCom contends that Verizon improperly calculates its switching cost by dividing by minutes associated with only 251 business days in a calendar year. In our view, provided that an incumbent LEC's methodology is

reasonable and consistent, TELRIC does not by itself dictate the use of a particular number of days, whether 308, 251, or some other number. Even if the New Jersey Board erred in approving Verizon's use of 251 days together with other inputs, Verizon's non-loop rates in New Jersey pass a benchmark comparison to Verizon's non-loop rates in New York and therefore fall within the range that reasonable application of TELRIC principles would produce.

12. In this application, Verizon chooses to rely on a benchmark comparison of its rates in New Jersey to those in New York. The Commission agrees that New York is similar to New Jersey in terms of both geography and rate structure. Having found that New York is an appropriate benchmark state, the Commission finds that New Jersey's non-loop rates are roughly six percent lower than New York non-loop rates. The Commission also finds that New Jersey non-loop costs are roughly one percent higher than New York non-loop costs, after taking a weighted average of New Jersey and New York costs derived from the Commission's Synthesis Model. Therefore, it concludes that New Jersey's non-loop rates pass a benchmark comparison to New York's non-loop rates and that they therefore satisfy our benchmark analysis and the requirements of checklist item two.

13. AT&T argues that Verizon's DUF rates are inflated and do not comply with TELRIC. AT&T did not raise these issues before the New Jersey Board, and it has only recently challenged Verizon's DUF rates in a motion for reconsideration of the Final UNE Rate Order. AT&T's motion is presently pending before the New Jersey Board. The New Jersey Board should have the opportunity to evaluate AT&T's evidence and make any adjustments it finds appropriate. The Commission commends the New Jersey Board's commitment to TELRIC principles, defers to the New Jersey Board's forthcoming resolution of the DUF rate, and finds no TELRIC error on the record before us on this issue.

14. AT&T, ASCENT, the NJDRA, and XO challenge Verizon's "hot cut" charges. A hot cut is the process of converting a customer from one network, usually a UNE-platform served by an incumbent LEC's switch, to a UNE-loop served by another carrier's switch. Commenters argue that the \$35 hot cut rate is not TELRIC-compliant. They contend generally that the hot cut rate is merely a temporary credit that does not comport with TELRIC principles. During the NJ I proceeding, Verizon's \$159.76 hot cut rate generated considerable controversy. Although

Verizon continues to argue in NJ II that this rate is Board-approved and TELRIC-complaint, it voluntarily agreed to reduce the effective rates for six hot cut charges to \$35.00. The \$35.00 hot cut rate is a rate selected by Verizon and that has gone into effect in New Jersey. The \$35.00 hot cut rate, which mirrors the effective rate in New York, bears the imprimatur of the New York PSC as well as the numerous competitive LECs who joined that settlement. The New Jersey Board is presently considering AT&T's motion for reconsideration of the hot cut rate and will have an opportunity to weigh AT&T's evidence of the appropriate rate level. We note that the \$35 hot cut charge reflects a reduction of over 75 percent from the charge adopted by the New Jersey Board. The Commission also takes comfort that the \$35 hot cut rate will remain in effect until at least March 1, 2004. Accordingly, it defers to the New Jersey Board's anticipated resolution of this matter and find no TELRIC error on the record before it in Verizon's \$35 hot cut rate.

15. AT&T asserts that the \$7.71 service order charge Verizon assesses on a competitive LEC whenever it adds or deletes a telephone feature service, such as caller identification, does not comply with TELRIC. A feature change service order charge is imposed only if a customer is already taking service from a competitive LEC. Even then, not all such customers request changes to their feature services. There is no evidence in the record that a feature change service order charge constitutes a barrier to market entry in the same way that a non-TELRIC hot cut charge could. The Commission notes that AT&T has filed a motion for reconsideration of this issue with the New Jersey Board. It believes that the New Jersey Board should have the opportunity to evaluate the evidence itself and make adjustments it regards as appropriate.

16. OSS. The Commission finds, as did the New Jersey Board, that Verizon provides non-discriminatory access to its OSS. In addition to New Jersey performance data, Verizon certifies that it provides competitive LECs in New Jersey with interfaces and gateways to the OSS common to those serving the rest of the former Bell Atlantic service area. Verizon engaged KPMG Consulting (KPMG) to test the interfaces and OSS serving New Jersey. In addition, Verizon engaged PricewaterhouseCoopers (PwC) to conduct two attestation reviews of Verizon's BOS BDT formatted bills in New Jersey in September 2001.

17. KPMG's testing included end-to-end testing and evaluation of integrated operations, including examination at a

projected "normal" volume equivalent to the submission of 1.3 million orders per month into the New Jersey SOP. With regard to performance data, KPMG undertook a comprehensive review of Verizon's systems and procedures to measure and report its performance under the Carrier-to-Carrier Guidelines, and KPMG found that Verizon satisfied all 164 test points. The Commission finds, as did the New Jersey Board, that we can rely on the KPMG test results as significant evidence that Verizon provides nondiscriminatory access to its OSS. The Commission's reliance on the KPMG test results is warranted because of the thoroughness and rigor with which KPMG conducted its military-style test, which covered 536 transactions and included volume testing. Thus, it sees no need to question the reliability of the data Verizon submitted in its application and, in fact, we are encouraged by Verizon's efforts in coordination with the New Jersey Board, to ensure that its data are accurate, reliable, and widely disclosed.

18. Competitors in New Jersey raise several issues regarding notifier timeliness and accuracy, and the Department of Justice comments that the Commission should satisfy itself that Verizon returns BCNs on an accurate and timely basis. For example, MetTel raises a threshold accusation that Verizon issues "false" order completion notifiers. In contrast to more anecdotal-based challenges made by competitors in previous section 271 proceedings, MetTel has extensively documented and inventoried its submissions of orders and receipt of notifiers. We commend MetTel on its efforts to compile and submit independent evidence and construct an affirmative case for its position. Nevertheless, we continue to place primary reliance on the notifier data that Verizon has submitted with its application. At the same time, the Commission recognizes that, although the issues raised by MetTel do not generally demonstrate checklist noncompliance, Verizon has an affirmative obligation to continue to engage MetTel and attempt to reconcile its disagreements with MetTel through a carrier-to-carrier dispute resolution process. In this regard, it is noted that Verizon has begun a data reconciliation process with MetTel during the course of this proceeding that, although incomplete, has focused the number of issues in dispute and led to a more precise identification of the underlying data in dispute. As a result, it appears that much of the remaining gap between the performance results reported by Verizon and the performance results

generated by MetTel arise from an apparent disagreement over the application of various aspects of the Carrier-to-Carrier Guidelines. Although the record reveals that this reconciliation process has been contentious and adversarial, at this time we do not believe that Verizon is not engaged in a good-faith effort to resolve these issues. The Commission fully expects Verizon to continue these efforts at reconciliation as part of its nondiscrimination obligations and to continue to make efforts to improve its OSS performance. It also expects the New Jersey Board will make every effort to facilitate this reconciliation effort either formally through its dispute resolution process or through other administrative measures.

19. For purposes of checklist compliance, the Commission is convinced by the thoroughness and rigor of KPMG's independent audit that Verizon's performance data, including its data related to notifiers specifically, is sufficiently accurate. The fact that no other company questions whether Verizon's performance data related to the timeliness and accuracy of Verizon's notifier data gives us additional assurance that such data are reliable. Further, MetTel's attempts to introduce certain usage proxies as indicators of system events and reliance on measures not adopted by the New Jersey Board do not persuade us to abandon the more objective and industry standard performance measures approved by the Board. The Commission concludes that Verizon has demonstrated that it provides notifiers in a nondiscriminatory manner that allows efficient competitors a meaningful opportunity to compete. In reaching this determination, it recognizes that the processes for notifying competitors of the status of their orders, the set of metrics to measure notification, and the corresponding process to record notifier performance, are all evolving and will continue to do so. Accordingly, the Commission expects Verizon to continue to work with MetTel and other competitors in enabling them to understand the business rules and address carrier-specific problems.

20. *Billing.* The Commission finds that Verizon complies with its obligation to provide nondiscriminatory access to its billing functions on the basis of its provision of: (1) Timely and accurate service usage data to competitive LECs; and (2) wholesale billing in a manner that provides competing carriers with a meaningful opportunity to compete. No party raises any issues with Verizon's provision of service usage data to

competitive LECs; and based on the evidence in the record, we find that Verizon's provision of the DUF meets its obligations in this regard. Several parties, however, raise issues with Verizon's provision of wholesale billing. Specifically, a number of parties dispute the accuracy of the wholesale bill, based on both the BOS BDT format and the retail format.

21. Verizon employs the same billing systems in New Jersey as it does in Pennsylvania, where our evidentiary finding that Verizon's wholesale bills were checklist compliant was a "close call," and many of the issues commenters raise in New Jersey are similar to the issues raised in Pennsylvania. Accordingly, the Commission agrees with the Department of Justice that the competitive experience in New Jersey is informed by that of Pennsylvania. It recognizes, however, that while the billing systems in New Jersey and Pennsylvania are identical, the overall billing processes differ. The Commission cannot, therefore, merely rely on our previous review of Verizon's billing system in Pennsylvania to make our finding here. It finds that Verizon has made a sufficient showing that both its retail-formatted and BOS BDT bills are accurate, and we reject assertions by AT&T that KPMG's failure to test the BOS BDT bill format fatally undermines Verizon's showing.

22. The Commission finds that Verizon demonstrates the accuracy of the BOS BDT bill format based on the limited commercial performance data available from its use in New Jersey, and consistent with our findings in the Verizon Pennsylvania Order, the PwC attestation that Verizon's BOS BDT bills are consistent with the retail format. Our concerns are satisfied by the recent performance data, by the low and decreasing number of discrepancies between the electronic and paper bills, and by PwC's attestation that the BOS BDT bills in September contained a de minimis amount of erroneous charges. Further, we find that Verizon has adequately demonstrated the accuracy of the BOS BDT bill by having PwC attest that it is reconcilable against the retail-formatted bill, which KPMG had previously found reconcilable with the DUF. Since the retail-formatted bill has been tested for accuracy by KPMG, and PwC has reconciled the BOS BDT bill against the retail-formatted bill, it is reasonable to assume that the BOS BDT bill is also reconcilable with the DUF. As with all OSS functions, although we must judge Verizon's wholesale billing at the time of its application, we recognize that access to OSS is an

evolutionary process and we expect that Verizon continue its efforts to improve its wholesale billing as industry standards evolve.

23. Several competitive LECs assert that their commercial experience shows that Verizon's systems produce recurring or "systemic" inaccuracies in its wholesale bills. We note that no commenter has put forth the type of detailed analysis of its wholesale billing dispute with Verizon that was present in our review of Verizon's application for section 271 authority in Pennsylvania. As we stated in the Verizon Pennsylvania Order, "we recognize, as a practical matter, that high-volume, carrier-to-carrier commercial billing cannot always be perfectly accurate." The Commission cannot, without further evidence, find that the parties have demonstrated systemic inaccuracies in Verizon's wholesale bills that would require a finding of checklist noncompliance.

24. Finally, the Commission addresses AT&T's allegations that Verizon's BOS BDT bill does not comply with industry standards. Verizon explains that the issues raised by AT&T are in fact deviations that are allowed under the industry standard and for which Verizon has provided clear documentation. AT&T also acknowledges that Verizon has made attempts to comply with AT&T's specific requests regarding the BOS BDT bill. It finds that Verizon complies with its obligation to provide clear documentation and assistance to AT&T regarding the BOS BDT bill, and that AT&T provides insufficient evidence to support its claim that Verizon does not offer a "readable and auditable" electronic bill format or that Verizon's BOS BDT bill impermissibly deviates from accepted industry standards. Moreover, AT&T's assertions regarding Verizon's implementation of the BOS BDT bill format are a fact-specific, carrier-to-carrier dispute concerning AT&T's use of Verizon's BOS BDT bill. As the Commission has stated in prior proceedings, given the statutory period for our review, the section 271 process simply could not function if we were required to resolve every individual factual dispute between a BOC and each competitive LEC regarding the precise content of the BOC's obligations to each competitor. The Commission takes added comfort in the special measures that the New Jersey Board announced to ensure nondiscriminatory access to electronic billing.

25. *Flow Through.* The Commission concludes, as did the New Jersey Board, that Verizon's electronic processing of orders is sufficient to provide carriers

with a meaningful opportunity to compete. Flow-through measures the number of orders that are electronically processed by an incumbent LEC's OSS without the need for manual intervention. In New Jersey, while Verizon's achieved flow-through rate for UNEs has been below the 95 percent standard set by the New Jersey Board, there nevertheless, has been a consistent, upward trend in the rate, reaching 85.34 percent in January, 89.82 percent in February and 90.50 percent in March 2002. Even if the Commission looks beyond achieved flow-through to total flow-through rates and order reject rates, it notes that Verizon's performance appears to show an improving trend. Moreover, it notes that KPMG's OSS test included an examination of Verizon's ability to electronically process service orders in varying mixes of order types at reasonably foreseeable commercial volumes and that KPMG and the New Jersey Board found Verizon's performance satisfactory. The Commission finds that the positive trends in both Verizon's flow-through and order reject rates, along with Verizon's overall performance in providing service order information in a timely and accurate manner and KPMG's findings regarding the scalability of Verizon's OSS are sufficient to demonstrate checklist compliance.

26. *Checklist Item 4—Unbundled Local Loops.* Verizon has adequately demonstrated that it provides unbundled local loops as required by section 271 and the Commission's rules. Specifically, the Commission's conclusion is based on its review of Verizon's performance for all loop types, which include, as in past section 271 orders, voice grade loops, hot cut provisioning, xDSL-capable loops, digital loops, and high capacity loops, and its review of Verizon's processes for line sharing and line splitting. As of February 2002, competitors in New Jersey have acquired from Verizon and placed into use approximately 59,000 stand-alone loops (including DSL loops), and about 51,000 loops provided as part of network element platforms that include switching and transport elements.

27. *Voice Grade Loops.* The Commission finds that Verizon provisions voice grade loops in a nondiscriminatory manner. It notes that voice grade loops comprise the overwhelming majority of loops ordered by competitive LECs in New Jersey. Verizon's performance in provisioning voice grade loops has met the relevant parity standard throughout the

November-March period with respect to timeliness and quality. Furthermore, Verizon's performance for repair and maintenance timeliness under the mean time to repair metric also demonstrates parity during the November-March period.

28. *Hot Cut Activity.* Verizon is providing voice grade loops through hot cuts in New Jersey in a nondiscriminatory manner. Verizon has satisfied its benchmark for on time performance for hot cuts for each month of the relevant November-March period. Although Verizon's installation quality performance for hot cuts is not reported in the New Jersey Carrier-to-Carrier Performance Reports, Verizon does provide a calculation of its performance under the New York guidelines. Verizon states that its installation quality performance has consistently been better than the two percent New York benchmark for trouble reports received within seven days of installation.

29. *xDSL-Capable Loops.* Verizon demonstrates that it provides stand-alone xDSL-capable loops in a nondiscriminatory manner. Verizon makes xDSL-capable loops available in New Jersey under approved interconnection agreements, and provides timely order confirmation notices to competitors. Verizon's performance for all relevant months under the missed appointment metric indicates that Verizon provisions xDSL loops in a timely manner. With respect to installation quality, Verizon also maintained parity during the relevant months under the installation quality measure. For almost every month during the relevant period, Verizon also maintained parity for measures of repair and maintenance timeliness and quality.

30. *Digital Loops.* Verizon provisions digital loops to competitors in a nondiscriminatory fashion in New Jersey. As an initial matter, we note that digital loops only represent a small number of the total loops provided by Verizon in New Jersey. Verizon provided digital loops to competitors in a timely manner throughout the relevant period. Verizon also achieves parity from November through March with respect to the measure of installation quality we have traditionally relied on, which measures the percent of installation troubles reported within 30 days. In addition, Verizon achieved parity performance throughout the relevant period with respect to maintenance and repair timeliness under the mean time to repair metric. Verizon also maintained parity performance during the relevant period for every month except February with respect to a measure of maintenance and

repair quality “the percentage of repeat trouble reports within 30 days.

Verizon's performance under this measure indicates a large disparity in February with respect to the percentage of repeat reports observed for competitive LECs and Verizon retail. Verizon explains, however, that the small sample size of competitive LEC trouble reports observed in February contributed to the wide fluctuation in performance under this measure. Moreover, this one month disparity is not competitively significant and does not warrant a finding of checklist noncompliance, given that Verizon returns to parity performance under this measure in March.

31. *High Capacity Loops.* Given the totality of the evidence, the Commission finds that Verizon's performance with respect to high capacity loops does not result in a finding of noncompliance for checklist item 4. Verizon states that, as of February 2002, competitive LECs have in service in New Jersey approximately 400 high capacity DS-1 loops, and no high capacity DS-3 loops, provided by Verizon. According to Verizon, high capacity loops represent only about 0.4 percent of all unbundled loops provisioned to competitors in New Jersey. Verizon's performance under the missed installation appointment metric suggests that Verizon has generally been timely in the provisioning of high capacity loops. Verizon achieved parity for repair and maintenance timeliness under the mean time to repair metric for three of the five relevant months. Verizon's performance with respect to repair and maintenance quality also indicates parity for four of the five months during the relevant period. The Commission recognizes, however, that Verizon does not achieve parity during the relevant period other than in February with respect to the installation quality metric, the percentage of installation troubles reported within 30 days. Verizon contends that this measure may not be an accurate indicator of its performance because the retail group for this metric (Verizon retail) does not provide a meaningful comparison. Verizon also argues that the small number of installation trouble reports received during the relevant period for high capacity loops, interoffice facilities, and loop/transport combinations are too few to provide meaningful performance results, and are “not as reliable an indicator of checklist compliance.” The Commission does not find that Verizon's performance with respect to troubles reported within thirty days warrants a finding of checklist

noncompliance, given that high capacity loops represent less than one percent of the unbundled loops that Verizon provides to competitors in New Jersey, and in light of Verizon's generally good performance under the other measures of high capacity loop provisioning, maintenance, and repair discussed above.

32. Line Sharing and Line Splitting. Verizon demonstrates that it provides nondiscriminatory access to the high frequency portion of the loop, and access to network elements necessary for competing carriers to provide line splitting. Verizon generally has met the relevant performance standards for provisioning, maintaining and repairing line-shared loops for competitors in New Jersey. Commenters in this proceeding do not criticize Verizon's performance with regard to the provisioning, maintenance and repair of line shared loops. Verizon also provides nondiscriminatory access to line-splitting in accordance with our rules. Verizon provides carriers that purchase line splitting with access to the same pre-ordering capabilities as carriers that purchase unbundled DSL loops or line sharing. In addition, working with competitive LECs through the New York DSL Collaborative, Verizon implemented a permanent OSS process for line splitting on October 20, 2001, throughout the Verizon East territory, including New Jersey. We note that AT&T raises challenges to Verizon's ordering process for line splitting, but we find that this process allows competitors a meaningful opportunity to compete. Accordingly, the Commission finds that Verizon complies with the requirements of this checklist item with respect to its line sharing and line splitting processes.

Other Checklist Items.

33. Checklist Item 1—Interconnection. Based on the evidence in the record, the Commission concludes that Verizon demonstrates that it provides interconnection in accordance with the requirements of section 251(c)(2) and as specified in section 271 and applied in the Commission's prior orders. Pursuant to this checklist item, Verizon must provide equal-in-quality interconnection on terms and conditions that are just, reasonable, and nondiscriminatory. Based on the Commission's review of the record, it concludes, as did the New Jersey Board, that Verizon complies with the requirements of this checklist item. In reaching this conclusion, the Commission examined Verizon's performance in providing collocation and interconnection trunks to

competing carriers, as it has done in prior section 271 proceedings. It notes that no commenter faults Verizon's interconnection quality or timeliness, and that the New Jersey Board found that Verizon provides equal-in-quality interconnection on terms and conditions that are just and reasonable and in accordance with the section 271.

34. Checklist Item 8—White Pages Directory Listings. Based on the record, the Commission finds that Verizon provides white page directory listings for customers of the other carrier's telephone exchange service and permits competitive providers of telephone exchange service and toll service to have access to directory listings in compliance with checklist item 8.

35. Checklist Item 13—Reciprocal Compensation. The Commission finds that Verizon demonstrates that it provides reciprocal compensation as required by checklist item 13.

36. Checklist Item 14—Resale. Based on the evidence in the record, the Commission concludes that Verizon satisfies the requirements of this checklist item in New Jersey in that it makes telecommunications services available for resale in accordance with the requirements of sections 251(c)(4) and 252(d)(3).

37. Checklist Items 3, 5, 6, 7, 9, 10, 11 and 12. An applicant under section 271 must demonstrate that it complies with checklist item 3 (poles, ducts, conduits, and rights of way), item 5 (transport), item 6 (switching), item 7 (911/E911, directory assistance, and operator services), item 9 (numbering administration), item 10 (databases and associated signaling), item 11 (number portability), and item 12 (local dialing parity). Based on the evidence in the record, the Commission concludes that Verizon demonstrates that it is in compliance with checklist items 3, 5, 6, 7, 9, 10, 11, and 12 in New Jersey. The New Jersey Board also concludes that Verizon complies with the requirements of each of these checklist items.

38. Section 272 Compliance. Verizon provides evidence that it maintains the same structural separation and nondiscrimination safeguards in accordance with the requirements of section 272.

39. Public Interest Analysis. The Commission concludes that approval of this application is consistent with the public interest. From the Commission's extensive review of the competitive checklist, which embodies the critical elements of market entry under the Act, it finds that barriers to competitive entry in New Jersey's local exchange market have been removed, and that the local exchange market is open to competition.

It further finds that the record confirms the Commission's view that BOC entry into the long distance market will benefit consumers and competition if the relevant local exchange market is open to competition consistent with the competitive checklist.

40. Price Squeeze Analysis.

Commenters allege the existence of a price squeeze in New Jersey that, they assert, compels a finding that the grant of Verizon's NJ II application is not in the public interest. While no commenter argues that the \$35 hot cut rate in New Jersey effects a price squeeze on competitors, XO contends that the Commission must determine whether Verizon's previous hot cut rates of \$159.76 and \$233.13 constitute a price squeeze. XO specifically alleges that the \$35 rate in New Jersey, unlike that in New York, is merely a temporary credit. There is no evidence that the specific hot cut terms in New York differ significantly from those in New Jersey. We therefore reject commenters' argument that that there are material differences between the New Jersey and New York hot cut rates that would warrant disapproval of the NJ II application, and we also decline to conduct a price squeeze analysis using Verizon's previous hot cut rates of \$159.76 and \$233.13.

41. The Commission also rejects the UNE price squeeze arguments of AT&T and WorldCom from NJ I, which they incorporate by reference in NJ II. Both commenters make related arguments concerning the allegedly insufficient profit margin available to them in the residential telephone market in New Jersey. Significantly, neither commenter claims that it cannot earn a positive gross margin in New Jersey. As it has noted previously, conducting a price squeeze analysis requires a determination of what a "sufficient" profit margin is. Resolving that issue requires more than simply determining what is sufficient for a particular carrier. The evidence before us demonstrates that competitive LECs in New Jersey can realize positive margins in 100 percent of the state and that the statewide average gross margin is \$5.62. There is no record evidence before us that these profit margins are inadequate for an efficient competitor. The Commission also notes that the New Jersey Board itself considered allegations of a price squeeze in the New Jersey residential market. During a November 20, 2001 state hearing, staff of the New Jersey Board presented evidence that the average residential customer generates approximately \$30.00 in monthly revenue. New Jersey Board staff noted that local competitors such as AT&T

who are also long distance carriers would receive net access savings or revenues. After subtracting UNE-platform costs from estimated monthly residential rates, staff of the New Jersey Board determined that competitors could expect to earn a monthly gross profit of approximately \$6.50. The Commission commends the New Jersey Board's independent analysis of the price squeeze issue and finds that it provides additional support for our conclusion that commenters have not established the existence of a price squeeze in New Jersey. It rejects commenters' allegations of a price squeeze and conclude that there is no evidence in the record that warrants disapproval of this application based on such contentions, whether couched as a violation of the public interest standard or as discrimination in violation of checklist item two.

42. *Section 271(d)(6) Enforcement Authority.* Working with the New Jersey Board, the Commission intends to monitor closely post-entry compliance and to enforce the provisions of section 271 using the various enforcement tools Congress provided us in the Communications Act.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 02-16739 Filed 7-2-02; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL RESERVE SYSTEM

[Docket No. R-1125]

Privacy Act of 1974; Notice of New System of Records

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of new system of records.

SUMMARY: In accordance with the Privacy Act, the Board of Governors of the Federal Reserve System (Board) is publishing notice of the establishment of a new system of records, entitled Visitor Log (BGFRS-32). We invite public comment on this new system of records.

DATES: Comment must be received on or before August 2, 2002.

ADDRESSES: Comments, which should refer to Docket No. R-1125, may be mailed to Ms. Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551 or mailed electronically to regs.comments@federalreserve.gov. Comments addressed to Ms. Johnson

also may be delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m. weekdays and to the security control room outside of those hours. The mail room and the security control room are accessible from the Eccles Building courtyard entrance, located on 20th Street between Constitution Avenue and C Street, NW. Comments may be inspected in Room MP-500 between 9 a.m. and 5 p.m. on weekdays pursuant to § 261.12, except as provided in § 261.14, of the Board's Rules Regarding Availability of Information, 12 CFR 261.12 and 261.14.

FOR FURTHER INFORMATION CONTACT:

Elaine M. Boutilier, Managing Senior Counsel, Legal Division (202/452-2418), Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551. For users of the Telecommunications Device for the Deaf (TDD) only, contract 202/263-4869.

SUPPLEMENTARY INFORMATION: In light of the heightened concerns regarding security of federal government personnel and buildings, the Board is implementing a procedure to screen visitors to the Board's premises before admission to those premises. To conduct this screening, the Board will request, in advance, that each visitor provide his or her name, date of birth, and social security number or passport number. Persons who refuse to provide the requested information may be denied admittance to the premises. This information will be used to facilitate searches of law enforcement databases to determine whether the visitor may present a risk to the security of the Board. As required by the General Records Schedule 18, published by the National Archives, the records will be retained for two years from date of admittance to the Board.

In accordance with 5 U.S.C. 552a(r), a report of this new system of records is being filed with the Chair of the House Committee on Government Reform and Oversight, the Chair of the Senate Committee on Governmental Affairs, and the Office of Management and Budget. This new system of records will become effective on August 12, 2002, without further notice, unless the Board publishes a notice to the contrary in the Federal Register.

BG FR-32

System name: BGFRS-32 – Visitor Log

System location:

Board of Governors of the Federal Reserve System, 20th and Constitution, NW., Washington, DC 20551.

Categories of individuals covered by the system:

All visitors to the buildings maintained by the Board of Governors of the Federal Reserve System ("Board").

Categories of records in the system:

Information concerning the identity of an individual who wishes to enter a building maintained by the Board. Such information will include the individual's name; social security number, passport number, or visa number; and date of birth. In addition, information derived from law enforcement data bases may be included in some records.

Authority for maintenance of the system:

12 U.S.C. 243

Purpose(s):

The purpose of this system of records is to permit the Board to provide for the security of its premises and the personnel in those premises by pre-screening visitors.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

a. Disclosure to the Department of Justice and other Federal, state, and local governmental agencies having a prosecutive function for the use by attorneys, magistrates, and judges; and parole and probation authorities for the purpose of prosecuting, sentencing, and determining the parole and probation status of criminal offenders or suspected criminal offenders.

b. Disclosure to personnel of Federal, state, and local governmental agencies, and other government agencies, foreign or domestic, where such disclosures are considered reasonably necessary for the purpose of furthering efforts to determine the risk posed by an individual wishing to visit the Board.

c. Disclosure to personnel of Federal, state, and local law enforcement agencies and other governmental agencies, foreign or domestic, where there is a showing of a reasonable need to accomplish a valid enforcement purpose.

d. Disclosure to personnel of private institutions and to private individuals of identifying information pertaining to actual or suspected criminal offenders or other individuals wishing to visit the Board for the purpose of furthering efforts to evaluate the danger such individuals pose.

e. Disclosures in the course of presenting evidence to a court, magistrate or administrative tribunal and disclosures to opposing counsel in the course of discovery proceedings for the purpose of enforcing, or prosecuting, a violation or potential violation of law, whether civil, criminal or regulatory in nature and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto.

f. Disclosures and/or responses to Federal, state or local agencies maintaining civil, criminal or other relevant law enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the issuance of a contract, grant or other benefit, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

g. Disclosure to the National Archives and Records Administration in connection with