

DIRECT TESTIMONY
OF
DR. JAMES ZOLNIEREK

TELECOMMUNICATIONS DIVISION
ILLINOIS COMMERCE COMMISSION

NORTH COUNTY COMMUNICATIONS CORPORATION
-vs.-
VERIZON NORTH INC., VERIZON SOUTH INC.

PUBLIC VERSION

*****BEGIN CONF XXX END CONF***** - DENOTES CONFIDENTIAL
INFORMATION

COMPLAINT PURSUANT TO §§ 13-514, 13-515 AND 13-516 OF THE PUBLIC
UTILITIES ACT AND 83 ILL. ADMIN. CODE PART 766.

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1 **Q. Please state your name and business address.**

2 A. My name is James Zolnierrek and my business address is 527 East Capitol
3 Avenue, Springfield, Illinois 62701.

4

5 **Q. By whom are you employed and in what capacity?**

6 A. I am employed by the Illinois Commerce Commission (“Commission” or
7 “ICC”) as the Interim Director of the Public Utility Bureau’s
8 Telecommunications Division.

9

10 **Q. Please state your education background and previous job
11 responsibilities.**

12 A. I earned my Doctor of Philosophy degree in economics from Michigan
13 State University in 1996. Prior to joining the Illinois Commerce
14 Commission I was employed by the Federal Communications Commission
15 (“FCC”) in the Common Carrier Bureau, Industry Analysis Division.

16

17 **Overview**

18

19 **Q. What is the purpose of your testimony?**

20 A. In this proceeding North County Communications Corporation (“NCC”) has
21 accused Verizon North, Inc. and Verizon South, Inc. (collectively
22 “Verizon”) of engaging in a pattern of bad faith, unfair business practices,
23 and anticompetitive actions with respect to North County and is seeking

24 relief from the Commission. In my testimony I examine NCC's claims and
25 the evidence offered in this proceeding to support or refute these claims.
26 Based upon this review I offer recommendations for Commission action.

27

28 **Signaling and Database Network Technology**

29

30 **Q. Are you an engineer or have you had any engineering training?**

31 A. No. I am not an engineer and have had no engineering training. The
32 opinions I express, however, are based on upon my general
33 understanding of certain signaling and database technology, which I
34 describe below. My general understanding is informed, in part, by
35 information disseminated by several sources, including the FCC and
36 Telcordia Technologies.¹ I have provided citations to information supplied
37 by these and other sources below.

38

39 **Q. What function does Signaling System 7 ("SS7") technology serve in**
40 **the call completion process?**

41 A. When carriers rely on out-of-band signaling, call-related information must,
42 as a general rule, flow back and forth between the calling party's carrier
43 and the called party's carrier over signaling systems in order for calls to

¹ Telcordia Technologies, Inc. (formerly Bellcore), provides "software and services for IP, wireline, wireless, and cable networks." Telcordia software "handles 80% of the fixed access lines, 100% of the toll-free traffic, and 90% of the wireless number portability market in the USA." Telcordia research "has lead to ADSL, ATM, Frame Relay, SONET, AIN, and ISDN" among other innovations. See <http://www.telcordia.com/aboutus/>

44 flow back and forth between the carriers' respective networks.² In its
45 Local Competition Order, the FCC described signaling systems as follows:

46 Signaling systems facilitate the routing of telephone
47 calls between switches. Most LECs employ signaling
48 networks that are physically separate from their voice
49 networks, and these "out-of-band" signaling networks
50 simultaneously carry signaling messages for multiple calls.
51 In general, most LECs' signaling networks adhere to a
52 Bellcore standard Signaling System 7 (SS7) protocol.
53

54 SS7 networks use signaling links to transmit routing
55 messages between switches, and between switches and
56 call-related databases. A typical SS7 network includes a
57 signaling link, which transmits signaling information in
58 packets, from a local switch to a signaling transfer point
59 (STP), which is a high-capacity packet switch. The STP
60 switches packets onto other links according to the address
61 information contained in the packet. These additional links
62 extend to other switches, databases, and STPs in the LEC's
63 network. A switch routing a call to another switch will initiate
64 a series of signaling messages via signaling links through an
65 STP to establish a call path on the voice network between
66 the switches.³
67
68

69 **Q. How does the signaling system interact with the call related**
70 **databases that are the subject of this proceeding?**

71 A. The signaling system is linked to call-related databases so that certain
72 call-related information can, when necessary, be extracted from these
73 databases. The FCC states:

74 [T]he SS7 network also employs signaling links (via
75 STPs) between switches and call-related databases, such as

² With in-band signaling, call control information is sent within the same band or channel as is used to transmit data or voice. With out-of-band signaling call control information is generally sent in a separate band of the data or voice channel, or on an entirely separate dedicated channel

³ Federal Communications Commission, First Report and Order, CC Docket Nos. 96-98 and 95-185, Released August 8, 1996 ("Local Competition Order"), ¶¶ 455 – 456 (footnotes omitted)

76 the Line Information Database (LIDB), Toll Free Calling (i.e.,
77 800, 888 number) database, and AIN databases. These links
78 enable a switch to send queries via the SS7 network to call-
79 related databases, which return customer information or
80 instructions for call routing to the switch.

81
82 From the perspective of a switch in a LEC network,
83 the databases discussed above merely supply information or
84 instructions. Updating or populating the information in such
85 databases, however, takes place through a separate
86 process involving different equipment. Carriers input
87 information directly into a service management system
88 (SMS), which in turn downloads such information into the
89 individual databases.⁴

90
91 In essence, then, the signaling system, in this case SS7, is the medium
92 used to obtain necessary or useful information from call-related databases
93 and transmit the information to a switch that seeks such information for
94 any of several purposes including those described below.

95
96 **Q. What is a Line Information Database (“LIDB”)?**

97 A. A LIDB is a database that contains information related to a particular
98 telephone number. Telcordia Technologies states:

99 A Line Information Database (LIDB) is a real-time,
100 transaction-oriented database that contains subscriber
101 information on virtually all working telephone numbers in
102 North America. LIDBs work as central repositories for data
103 storage and retrieval based on 10-digit line numbers. They
104 are nationally accessible and continually audited and
105 updated. LIDBs are available to local, long-distance,
106 wireless, and other service providers. A LIDB contains
107 subscriber information that includes the customer's name,
108 the identity of the service provider (Account Owner), the
109 customer's preferred language, and necessary billing
110 information such as the Revenue Accounting Office (RAO).⁵

⁴ Id., ¶¶ 457 – 458 (footnotes omitted).

⁵ Telcordia Roadmap to Line Information Data (LIDB) Documents, Telcordia Technologies Roadmap Series, ROADMAP-TO-LIDB-1, Issue 2, August 2006 (“LIDB Roadmap”), at 2-1

111

112 **Q. How is information extracted from a LIDB?**

113 A. When a carrier requires LIDB information in order to provide a telephone
114 call and/or to provide an ancillary service related to the call, its switch, by
115 way of the signaling system, extracts LIDB information via a query to a
116 LIDB that contains the required information. Telcordia Technologies
117 states:

118 A LIDB transaction consists of a query from a network
119 system to the LIDB, followed by an appropriate response
120 from the LIDB to the querying network system.⁶
121

122 **Q. What information is returned in a LIDB query?**

123 A. There are several possible types of LIDB queries including, among others:
124 (1) Calling Card queries “to validate that a calling card number ... can be
125 used to bill a particular call”; (2) Billed Number Screening queries “to
126 determine if collect or third-number billing is allowed, not allowed, or in
127 need of real-time verification, for the particular billing number; and (3)
128 Generic Name queries “to obtain the name associated with a line number
129 originating a call.”⁷

130

131 **Q. Is Caller Name (“CNAM”) information included within LIDBs?**

132 A. CNAM information can be included in a LIDB or could be housed in a
133 separate database. Telcordia Technologies states:

⁶ Telcordia Roadmap, at 2-2
⁷ LIDB Roadmap at 2-3 and 2-4

134 [M]ost, but not all, CNAM implementations obtain the
135 name from the LIDB; in some companies, a different
136 database is accessed.⁸
137

138 **Q. Do carriers sometimes own and control called-related databases that**
139 **contain information related to their own customers?**

140 A. Yes, carriers can and do own and operate called-related databases that
141 contain information related to their own customers. For example, Verizon
142 states: “Verizon retains full and complete ownership and control over its
143 LIDB and CNAM databases.”⁹
144

145 **Q. Do carriers sometimes use other database providers to store**
146 **information related to their own customers?**

147 A. Yes. Carriers need not own and operate called-related databases that
148 contain information related to their own customers. They might, instead,
149 elect to store their LIDB and CNAM data in a database owned by a third-
150 party provider. For example, in Docket No. 01-0662, AT&T Illinois (then
151 “Ameritech Illinois”) identified Southern New England Telephone
152 Diversified Group as the party it contracted with to provide its LIDB.¹⁰
153 Similarly, third-party providers such as VeriSign advertise LIDB and
154 CNAM database housing services prominently on their websites.¹¹
155

⁸ LIDB Roadmap at 2-5

⁹ Verizon North Inc. and Verizon South Inc. Data Response to Data Request No. NCC-69.

¹⁰ Commission Order on Investigation, Docket No. 01-0662, May 13, 2003 at 551

¹¹ See, for example, <http://www.verisign.com/products-services/communications-services/intelligent-database-services/lidb/index.html> and <http://www.verisign.com/products-services/communications-services/intelligent-database-services/calling-name-database/index.html>

156 **Q. Is it possible for one carrier to obtain LIDB and CNAM information**
157 **related to a second carrier's customers if the second carrier does not**
158 **make its LIDB and CNAM information available outside its own**
159 **company?**

160 A. No. A third-party provider cannot supply LIDB and CNAM information
161 related to the customers of a particular carrier if the carrier does not
162 supply that information either directly or indirectly to the third-party
163 provider.

164

165 **Q. How can third-party providers obtain a carrier's LIDB and CNAM**
166 **information?**

167 A. The third-party provider can obtain bulk LIDB and CNAM information
168 containing all records in the database from the carrier. Alternatively, the
169 third party provider can query the carrier's LIDB and CNAM database to
170 obtain information on a record by record basis. The difference between
171 these two methods bears directly on the services that a third-party
172 provider can offer.

173

174 In the first case, the third-party provider actually stores, hosts and
175 manages the LIDB and CNAM databases, and can process queries
176 directly. For example, if a third-party provider hosts NCC's LIDB and
177 CNAM information, and if Verizon then queries the third-party provider for
178 NCC information, the third-party provider will return this information

179 directly using the data in its own database, and accordingly it is not
180 required to query NCC on a query-by-query basis.

181

182 In the second case, the third-party provider is merely an intermediary that
183 provides a type of query forwarding service. For example, if NCC has its
184 own CNAM and LIDB database, and Verizon sends a query to a third-
185 party provider requesting NCC CNAM and LIDB data, the third party will
186 need to send a query to NCC, retrieve the results of that query, and then
187 send those results back to Verizon. In this scenario, the third-party
188 provider does not host the database or store the information.

189

190 **NCC and Verizon Current and Proposed LIDB and CNAM Arrangements**

191

192 **Q. How does Verizon currently obtain NCC CNAM and LIDB information**
193 **related to NCC customers?**

194 A. Verizon states that “Verizon obtains CNAM and LIDB ‘look-ups’ from
195 NCC’s data through third-party vendors[.]”¹² It is my understanding that
196 NCC currently stores its data with a third-party vendor and, therefore, that
197 Verizon does not currently obtain NCC CNAM and LIDB information either
198 directly or indirectly from queries to NCC-owned and -controlled CNAM
199 and LIDB databases.¹³

200

¹² Answer, ¶ 24

¹³ Response of North County Communications Corporation to Verizon Data Request No. 16, Dated August 7, 2007

201 **Q. Does NCC propose to terminate the current arrangement whereby**
202 **NCC houses its LIDB and CNAM data with a third party provider and**
203 **whereby Verizon obtains LIDB and CNAM information from the third**
204 **party database provider?**

205 A. NCC clearly would prefer to do so. According to NCC, “North County
206 finds it is far more cost-effective to populate, store, update, query and
207 transmit its end user line and CNAM information in its own databases,
208 using its own resources and facilities.”¹⁴

209

210 **Q. What is your understanding of how NCC proposes that Verizon**
211 **obtain LIDB and CNAM information from NCC?**

212 A. According to NCC, NCC has proposed to enter an agreement whereby
213 Verizon would access NCC LIDB and CNAM information on the same
214 terms, conditions, and rates that are contained and provided for in the
215 February 8, 2007 contract executed between NCC and Verizon, which
216 allows NCC to directly access Verizon’s LIDB and CNAM information.¹⁵
217 Under this contract, when NCC requires Verizon LIDB or CNAM
218 information, it can query Verizon’s database through the SS7 network.¹⁶
219 NCC pays Verizon directly \$0.006 per query pursuant to this contract.¹⁷

220

221 **Q. Has Verizon declined to enter into the agreement proposed by NCC?**

¹⁴ Complaint, ¶ 27
¹⁵ Id., ¶¶ 11-14
¹⁶ Id., ¶ 14
¹⁷ Id., ¶¶ 15-16

222 A. Yes. Verizon states “Verizon admits that it declined to enter into the
223 CNAM/LIDB agreement proposed by NCC”.¹⁸ However, Verizon denies
224 that NCC’s “truncated characterization” of the proposed agreement
225 adequately speaks for the proposed agreement.¹⁹

226

227 **Q. Does NCC currently obtain Verizon LIDB and CNAM information**
228 **pursuant to the February 8, 2007 contract?**

229 A. Apparently not. NCC affirms that “since February 8, 2007, NCC has
230 continued to ‘dip,’ or query, Verizon’s CNAM/LIDB information via a third-
231 party database provider or providers.”²⁰ NCC appears not to have
232 exercised its rights under the contract in this regard.

233

234 **Q. Does NCC object to Verizon obtaining NCC CNAM and LIDB**
235 **information indirectly through a third-party?**

236 A. It is my understanding that NCC does not object to Verizon or any other
237 carrier accessing its CNAM and LIDB data through a third-party. First, as
238 noted above, NCC currently accesses Verizon information through a third-
239 party, despite being authorized by contract to do so directly. Second,
240 NCC states “[o]ther carriers may elect to access NCC’s LIDB/CNAM
241 information through third parties that dip the information for those carriers.
242 But those carriers will not demand, as Verizon does, that NCC store

¹⁸ Answer, ¶ 21

¹⁹ Id., ¶ 20

²⁰ Response of North County Communications Corporation to Verizon Data Request No. 46, Dated August 24, 2007

243 NCC’s data in a Verizon-approved database. If they do, similar actions
244 against those carriers before the Commission will follow.”²¹ Thus, it is my
245 understanding that NCC objects to any demand for it to provide bulk
246 CNAM and LIDB access to third-party vendors of Verizon’s choice, but
247 that NCC does not object if Verizon were to use a third-party to query
248 NCC’s own CNAM and LIDB databases.

249

250 **Q. Has Verizon proposed an alternative to third-party access whereby**
251 **Verizon could access NCC LIDB and CNAM information directly?**

252 A. Yes. Verizon has proposed a direct CNAM/LIDB storage agreement with
253 NCC.²²

254

255 **Q. How does Verizon’s proposed CNAM/LIDB storage agreement work?**

256 A. *****BEGIN CONF XX**
257 **XX**
258 **XX**
259 **XX**
260 **XX**
261 **XX**
262 **XX**

²¹ Response of North County Communications Corporation to Verizon Data Request No. 41, Dated August 24, 2007
²² Id. at 8

263 XXXXXXXXXXXXXXXXXXXXXXX²³ XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

264 XXX

265 XXX.²⁴ XXXXX

266 XXX

267 XXX

268 XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX.

269

270 XXX

271 XXX

272 XXXXXXXXXXXXXXXXXXXXXXX. END CONF***

273

274 **Q. Has Verizon proposed any other arrangements whereby Verizon**

275 **could access NCC LIDB and CNAM information contained in NCC**

276 **databases either directly or indirectly?**

277 **A. Not to my knowledge.**

278

279 **NCC Customer Impacts**

280

281 **Q. If Verizon is able to, and does, obtain NCC CNAM and LIDB**

282 **information from a third-party vendor is there any technical reason**

283 **that the service that NCC provides its customers will be impaired?**

²³ Verizon North Inc. and Verizon South Inc. Data Response to Data Request No. JZ VZ-10, attached confidential copy of the direct CNAM/LIDB storage agreement that Verizon proposed to NCC (NCC CNAM Storage 6-2007.doc)

²⁴ Verizon North Inc. and Verizon South Inc. Data Response to Data Request No. NCC-117

284 A. I am aware of none.

285

286 **Q. If Verizon does not obtain NCC CNAM and LIDB information at all, is**
287 **there any technical basis to conclude that the service NCC provides**
288 **its customers will be impaired in any way?**

289 A. Yes. There are some instances in which the service that NCC customers
290 receive will be impaired. If Verizon does not obtain NCC LIDB
291 information, Verizon will not be able to validate the willingness of individual
292 NCC customers to accept collect calls. In this case, it seems likely that
293 Verizon will block collect calls placed by Verizon customers to NCC
294 customers.²⁵ Similarly, NCC customers might not receive certain third-
295 party billed calls if Verizon does not obtain NCC LIDB information.²⁶ Apart
296 from these general categories of calls, it is my understanding that the
297 failure of companies to exchange CNAM and LIDB information will not
298 result in calls being blocked.

299

300 Failure to exchange CNAM and LIDB information might, however, result in
301 the calls not being completed. For example, with respect to CNAM
302 information, if Verizon does not obtain NCC CNAM information, CNAM
303 information will not accompany calls NCC customers make to Verizon
304 customers. Customers of Verizon's Caller ID services (those that do not
305 have Verizon Caller ID Number Only service) will therefore not receive

²⁵ Verizon North Inc. and Verizon South Inc. Data Response to Data Request No. JZ VZ-4
²⁶ Verizon North Inc. and Verizon South Inc. Data Response to Data Request No. JZ VZ-5

306 NCC caller names.²⁷ The failure of this information to appear to Verizon's
307 customers could reduce the probability that NCC customers' calls will be
308 answered by Verizon customers with Caller ID.

309

310 **Q. If Verizon does not obtain NCC CNAM and LIDB information at all, is**
311 **there any technical basis to conclude that the service that NCC**
312 **customers receive will differ from that received by Verizon**
313 **customers?**

314 A. Yes. If Verizon does not obtain NCC LIDB information, Verizon will
315 probably block collect and third-party billed calls involving NCC customers
316 but not calls involving similarly situated Verizon customers.

317

318 Additionally, if Verizon does not obtain NCC CNAM information, NCC
319 customers will not have their CNAM information broadcast to Verizon
320 customers, while similarly situated Verizon customers will have such
321 information broadcast. As a general matter, this means that Verizon
322 customers with Caller ID will be somewhat, if not significantly, more likely
323 to complete calls to other Verizon customers than to NCC customers.

324

325 **Q. Does the disparity in the relative sizes of the two companies make**
326 **NCC more vulnerable to harm from Verizon not obtaining NCC LIDB**

²⁷ Verizon North Inc. and Verizon South Inc. Data Response to Data Request No. JZ VZ-2

347 **Q. Is it anticompetitive for Verizon to use a third-party vendor to obtain**
348 **NCC CNAM or LIDB information?**

349 A. No. There is nothing inherently anti-competitive with respect to Verizon's
350 use of third party CNAM and LIDB vendors. If a third party vendor
351 possesses NCC LIDB and CNAM information and makes that information
352 available to Verizon on rates, terms, and conditions that are more
353 favorable than the conditions upon which NCC makes that same
354 information available directly to Verizon, it is not anti-competitive for
355 Verizon to choose the most cost-effective option available to it. In fact,
356 prohibiting Verizon or any other telephone company from using third-party
357 vendors could decrease, rather than increase the competitiveness of the
358 telecommunications market.

359

360 **Q. How could preventing parties from using third-party vendors have an**
361 **anti-competitive effect on the telecommunications market?**

362 A. In the FCC's Local Competition Order, the FCC determined that
363 competitive telecommunications providers should have access, on an
364 unbundled basis, to incumbent LEC call-related databases including
365 incumbent LEC LIDBs. In particular, the FCC stated:

366 [W]e conclude that incumbent LECs should provide
367 access, on an unbundled basis, to the service management
368 (SMS), which allow the competitors to create, modify, or
369 update the information in call-related databases. We believe
370 it is technically feasible for incumbent LECs to provide
371 access to the SMS in the same manner and method that
372 they provide for their own access. We find that such access
373 is necessary for competitors to effectively use call-related

374 databases, which we have found to be critical to the entry in
375 the local exchange market.²⁹
376

377 Thus, in its initial order implementing the Telecommunications Act of 1996
378 the FCC determined that competitors should be able to house their call-
379 related information in incumbent LEC call-related databases. In the FCC's
380 UNE Remand Order, the FCC reaffirmed that competitive
381 telecommunications providers should have access, on an unbundled
382 basis, to incumbent LEC call-related databases and clarified that call-
383 related databases include CNAM databases.³⁰
384

385 However, in reevaluating UNE requirements in its Triennial Review Order
386 ("TRO"), the FCC determined that:

387 For carriers that deploy their own switches, there is evidence
388 in the record that, along with signaling, there are a
389 substantial number of competitive suppliers of call-related
390 databases that competitive LECs can reliably utilize as an
391 alternative to the incumbent LEC's services.³¹
392

393 Based on this evidence, the FCC determined that competitors that do not
394 rely on incumbent LEC unbundled local switching should not be able to
395 house their call-related information in incumbent LEC call-related
396 databases.³² In its Triennial Review Remand Order ("TRRO") the FCC

²⁹ Local Competition Order, ¶ 493

³⁰ Federal Communications Commission, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, CC Docket No. 96-98, Released November 5, 1999 ("UNE Remand Order"), ¶¶ 400 – 440

³¹ Federal Communications Commission, Report and Order on Remand and Further Notice of Proposed Rulemaking, CC Docket Nos. 01-338, 96-98 and 98-147, Released August 21, 2003 ("TRO"), ¶ 551

³² Id.

397 ended all requirements that incumbent LECs provide unbundled local
398 switching pursuant to federal UNE rules.³³ Therefore, incumbent LECs
399 are no longer required by federal unbundling rules to allow competitors to
400 house their call-related information in incumbent LEC call-related
401 databases.

402

403 Thus, under current federal law, competitors that cannot self-provision
404 their own LIDB and CNAM databases must rely on the third party
405 database provider market because they are no longer permitted to use
406 incumbent LEC databases to house their LIDB and CNAM data under
407 existing federal UNE rules. If the Commission were to deny parties the
408 opportunity to use third party providers and such providers were to exit the
409 market as a result, competitive carriers could be left with few or no options
410 for making their LIDB and CNAM data available to their interconnected
411 peers.

412

413 **Q. In light of this, should NCC or any other carrier be required to supply**
414 **its data in bulk to a third-party vendor?**

415 A. No. The parties agree that third-party LIDB and CNAM providers charge
416 fees for the population, storage, updating, querying, and transmitting
417 activities they perform.³⁴ If a telephone provider can self-provide these

³³ Federal Communications Commission, Order on Remand, CC Docket Nos.04-313 and 01-338, Released February 4, 2005 ("TRRO"), ¶ 5

³⁴ Complaint, ¶ 26; Answer, ¶ 26

418 services more cost-effectively, as NCC asserts it can do,³⁵ then there is no
419 reason it should be required to provide bulk access to its LIDB or CNAM
420 information to any particular third-party provider.

421

422 **Q. Is Verizon explicitly taking the position that NCC must supply its**
423 **LIDB and CNAM information in bulk to third-party providers?**

424 A. Not to my knowledge. *****BEGIN CONF XXXXXXXXXXXXXXXXXXXXXXXX**
425 **XX**
426 **XX**
427 **XX**
428 **XX. "36 XXXXXXXXXXXX**
429 **XX**
430 **XX**
431 **XXXXXXXXXXXXXXXXXXXXX. END CONF*****

432

433 **Q. In your opinion, would it be anti-competitive for Verizon to refuse to**
434 **obtain NCC LIDB and CNAM information from some source, provided**
435 **it can do so on reasonable rates, terms, and conditions?**

436 A. Yes. The ability of telephone companies to provide competitive service
437 requires that they be able to interconnect and exchange calling and
438 calling-related information with other carriers on a non-discriminatory
439 basis. As explained above, based on Verizon's size relative to NCC, the

³⁵ Complaint, ¶ 27
³⁶ Verizon North Inc. and Verizon South Inc. Data Response to Data Request No. JZ VZ-8

440 effect of a Verizon refusal to exchange LIDB and CNAM information with
441 NCC would constitute behavior that is, in my opinion, anti-competitive.

442

443 **Q. Has Verizon refused to obtain NCC LIDB and CNAM information?**

444 A. Not to my knowledge.

445

446 **Q. Has Verizon taken any actions that have the effect of requiring NCC**
447 **to supply its LIDB and CNAM information in bulk to third-party**
448 **providers?**

449 A. Not to my knowledge.

450

451 **Q. In your opinion, is there evidence that Verizon's conduct has, to**
452 **date, been anticompetitive?**

453 A. No, I have yet to see any such evidence.

454

455 **Q. Is Verizon considering any actions that have the effect of requiring**
456 **NCC to supply its LIDB and CNAM information in bulk to third-party**
457 **providers?**

458 A. It appears to be preparing to take such an action. Specifically, Verizon
459 has indicated that it is preparing to sign a contract with a third-party
460 database provider that commits Verizon to "send all external CNAM/LIDB
461 traffic to that third-party provider as Verizon's sole CNAM/LIDB provider."³⁷

³⁷ Verizon North Inc. and Verizon South Inc. Data Response to Data Request No. NCC-96

462

463 **Q. Would this contract prevent Verizon from directly querying an NCC**
464 **LIDB or CNAM database?**

465 A. Although I am not a lawyer, and although I have not seen or reviewed the
466 contract in question, or its relevant terms, it appears to me that the
467 contract might well do so. With respect to the contract, Verizon states:

468 Verizon's quantity discounts are based on the third party
469 provider being Verizon's sole transport access provider. To
470 receive the negotiated discounts, all existing access
471 contracts are to be terminated and Verizon is to use the
472 access rates provided by the third party aggregator through
473 the aggregator's contracts with database owners. If Verizon
474 were to enter into a direct contract with NCC, the terms of
475 the third party agreement would be violated, and the rates
476 would have to be renegotiated.³⁸
477

478 **Q. Do you believe that Verizon's pending actions have the potential to**
479 **be anti-competitive?**

480 A. Such potential exists. By contractually obliging itself to rely solely on a
481 third party, Verizon might be taking action, through incurring binding
482 contractual obligations, that would effectively prevent it from obtaining
483 NCC LIDB and CNAM information directly from NCC databases. This
484 would compel NCC to contract with Verizon's selected third-party provider
485 or to run the heightened risk that Verizon will refuse to obtain NCC
486 customer LIDB and CNAM information and negatively impact the service
487 provided by NCC.

488

³⁸ Verizon North Inc. and Verizon South Inc. Data Response to Data Request No. NCC-110

489 Placing NCC in such a position need not, however, produce an anti-
490 competitive outcome. For example, the third-party provider could obtain
491 LIDB and CNAM information from NCC on rates, terms, and conditions
492 that are as reasonable as those Verizon might offer, or even be required
493 to offer. That is, Verizon could simply be contracting with the third-party in
494 order to take advantage of efficiency enhancing aggregation opportunities
495 and there is no reason that Verizon could not use such a third-party in
496 such a way that NCC would obtain rates, terms, and conditions as
497 favorable as if Verizon were directly dealing with NCC in a reasonable and
498 non-discriminatory manner.

499
500 The third-party LIDB and CNAM provider would, however, be in a position
501 where it has substantial leverage over NCC – leverage created by NCC’s
502 limited choices of paying whatever the third-party provider elects to charge
503 for Verizon’s CNAM / LIDB, or suffering service impairment. If this third-
504 party provider uses that position to impose on NCC unreasonable and/or
505 discriminatory rates, terms, and conditions, then that would be a direct
506 outcome of Verizon’s choice to deal with NCC only through a specific
507 third-party intermediary and would, in my opinion, be equivalent to Verizon
508 imposing unreasonable and/or discriminatory conditions on NCC directly.
509 It is certainly not impossible that the third-party provider might take
510 advantage of its position; therefore the risk of an anti-competitive outcome
511 for NCC is positive and not insignificant.

512

513 I note, however, that the factual basis for this analysis is primarily my
514 review of responses to data requests. I have not reviewed, nor even seen,
515 the contract that Verizon and the third-party CNAM / LIDB provider intend
516 to execute, nor do I know the identity of the third-party provider.
517 Accordingly, while I am able to draw general conclusions regarding what
518 might result from the execution and implementation of the contract, I
519 cannot state with precision what will result.

520

521

522 **Recommendation**

523

524 **Q. Do you recommend that the Commission find that Verizon has,**
525 **based upon the evidence adduced to date in this proceeding,**
526 **engaged in a pattern of bad faith, unfair business practices, and**
527 **anticompetitive behavior with respect to North County?**

528 A. No, I do not.

529

530 **Q. Do you recommend that the Commission find, based upon the**
531 **evidence adduced to date in this proceeding, that Verizon actions**
532 **violate Section 13-514 of the Illinois Public Utilities Act or impede the**
533 **development of competition in the telecommunications market in**
534 **Illinois?**

535 A. No, I do not.

536

537 **Q. Although you do not you recommend that the Commission find that**
538 **Verizon has, based upon the evidence adduced to date in this**
539 **proceeding, engaged in bad faith conduct, unfair business practices,**
540 **or anticompetitive behavior with respect to North County or that**
541 **Verizon's actions violate Section 13-514 of the Illinois Public Utilities**
542 **Act or impede the development of competition in the**
543 **telecommunications market in Illinois, do you have any concerns**
544 **about Verizon's pending actions?**

545 A. Yes. Verizon is considering actions that will cause Verizon to incur
546 contractual obligations that might effectively prohibit it from obtaining LIDB
547 and CNAM information directly from NCC LIDB or CNAM databases.
548 There is nothing, however, that guarantees that Verizon's third-party
549 provider will agree to acquire NCC LIDB or CNAM data on rates, terms,
550 and conditions that are reasonable. In fact, the third party might well have
551 an incentive to demand rates, terms, and conditions that are unreasonable
552 and discriminatory relative to those offered to Verizon for access to its
553 LIDB and CNAM information.

554

555 Specifically, the third-party provider that Verizon has selected might
556 reasonably assume that NCC will face a choice between accepting
557 whatever terms the third-party provider offers, or suffering service
558 impairment if the third-party does not obtain NCC's information, thereby

559 assuring that Verizon will have no access to it. With such leverage, the
560 third party might demand that NCC provide all of its LIDB and CNAM data
561 in bulk and/or refuse to compensate NCC for querying NCC databases.
562 Such demands could very well compare unfavorably with the rates, terms,
563 and conditions upon which Verizon makes its LIDB and CNAM data
564 available and would likely impede NCC's ability to compete in Illinois.

565

566 In my opinion, NCC has no obligation to accept rates, terms, and
567 conditions for accessing its LIDB or CNAM data that compare unfavorably
568 with the rates, terms, and conditions upon which Verizon makes its LIDB
569 and CNAM data available and that would impede NCC's ability to compete
570 in Illinois. Furthermore, it is my opinion that if: (1) NCC elects not to
571 provide its LIDB and CNAM data in bulk to the third-party provider and (2)
572 the third-party provider refuses to query NCC databases under reasonable
573 and non-discriminatory rates, terms, and conditions, then Verizon must be
574 prepared to find an alternative way to obtain NCC LIDB and CNAM data
575 that does result in reasonable and nondiscriminatory terms even if doing
576 so requires Verizon to incur any financial penalty that it has established for
577 doing so. Verizon should not be able to use a "poison pill" arrangement to
578 impose on NCC, either directly or indirectly, anti-competitive rates, terms,
579 and conditions for the provision of LIDB and CNAM information.

580

581 Despite my concerns with Verizon's pending actions, I cannot state with
582 precision what actions Verizon or any involved third-party provider will
583 take or what will result. Thus, while Verizon's pending actions are of
584 concern, Verizon has not, based upon the evidence adduced to date in
585 this proceeding, engaged in bad faith conduct, unfair business practices,
586 or anticompetitive behavior with respect to North County and has not yet
587 taken any action that violates Section 13-514 of the Illinois Public Utilities
588 Act or impedes the development of competition in the telecommunications
589 market in Illinois.

590

591 **Q. Does this conclude your direct testimony?**

592 A. Yes.