



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
**Two Gateway Center**  
**Newark, NJ 07102**  
**[www.nj.gov/bpu/](http://www.nj.gov/bpu/)**

**TELECOMMUNICATIONS**

IN THE MATTER OF THE BOARD INVESTIGATION       )  
REGARDING THE RECLASSIFICATION OF INCUMBENT)  
LOCAL EXCHANGE CARRIER (ILEC) SERVICES AS       )  
COMPETITIVE   )

ORDER ON MOTION  
TO STRIKE

DOCKET NO. TX07110873

(SERVICE LIST ATTACHED)

BY COMMISSIONER FREDERICK F. BUTLER:

By Order dated November 28, 2007, in response to a request from Verizon New Jersey, Inc. ("Verizon"), the Board determined that it is appropriate at this time to conduct a full investigation of and hearing on the question of whether incumbent local exchange carrier ("ILEC") provided mass market retail services should be declared competitive pursuant to N.J.S.A. 48:2-21-19 (b), after review and consideration of the necessary criteria.

By letter dated December 18, 2007, Verizon moved to strike the Initial Testimony of Susan M. Baldwin, submitted on December 14, 2007, on behalf of the New Jersey Division of Rate Counsel ("Rate Counsel"). Verizon argues that Ms. Baldwin's testimony should be stricken in its entirety because it addresses issues that are outside the scope of this proceeding.

According to Verizon, the November 28, 2007 order commencing the proceeding makes clear that the sole purpose of this proceeding is to investigate whether ILEC-provided retail mass market services are competitive. Ms. Baldwin's testimony, however, concerns a very different issue – whether the Board should reconsider its prior determination that multi-line business services are competitive. According to Verizon, Ms. Baldwin's testimony disregards the Board's clear directive that interested parties "supporting reclassification" were to file initial testimony on December 14, 2007. The motion further suggests that even Ms. Baldwin recognizes that her initial testimony strays far beyond the scope of the Board's current inquiry. In her testimony, she notes that her *reply* testimony *will* address the possible "reclassification of ILEC mass market services as competitive" but that her initial testimony is limited to reclassifying multi-line business services which have already been declared competitive. VNJ requests that Ms. Baldwin's initial testimony be stricken in its entirety.

On December 27, 2007, Rate Counsel submitted its comments on the Motion to Strike filed by Verizon. Rate Counsel submits that Verizon's motion lacks merit, and is solely intended to preclude a full and complete investigation on what retail mass market services should be reclassified under N.J.S.A. 48:2-21.19. Therefore, Verizon's motion should be denied.

According to Rate Counsel, Verizon completely ignores the fact that two or more business lines are within the definition of the "mass market." In the Direct Testimony of Paul B. Vasington, filed on behalf of Verizon on December 14, 2007, Mr. Vasington acknowledges that both the Federal Communications Commission and the Board have included residential and small business customers within the definition of "mass market customers." Rate Counsel argues that if two or more business lines lack sufficient competition to remain competitive, reclassification of residential lines and single business lines as competitive is not possible. Accordingly, Rate Counsel concludes that its testimony fully complies with directions given to the parties in the Board's November 28, 2007 order.

### DISCUSSION

Upon review of the above referenced motion and comment, I FIND that the issue of whether the Board should reconsider its prior determination that multi-line business service are competitive, is beyond the scope of this proceeding. The November 28, 2007 order initiating this investigation unambiguously identifies the scope of this matter as "a full investigation of and hearing on the question of whether incumbent local exchange carrier (ILEC) mass market retail services should be declared competitive pursuant to N.J.S.A. 48:2-21-19(b), after review and consideration of the necessary criteria." Nothing in the order suggests that the scope of this proceeding includes a review under N.J.S.A. 48:2-21-19(d) of services previously declared competitive if the Board determines that sufficient competition is no longer present. My finding herein is consistent with the Board's finding in the CLEC reclassification decision issued on June 29, 2007.<sup>1</sup>

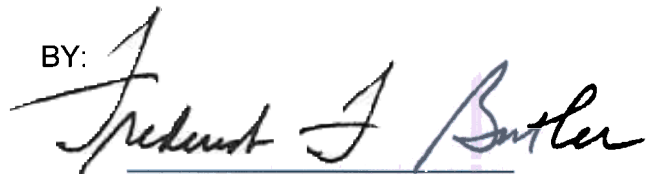
Therefore, I HEREBY ORDER that those portions of the testimony of Susan M. Baldwin submitted on December 14, 2007, that relate to the reclassification of multi-line business services previously declared competitive by the Board, are outside the scope of this proceeding. Rate Counsel may incorporate into its Reply Testimony of Parties Opposing Reclassification that is due to be filed by January 10, 2008, any portion of Ms. Baldwin's testimony that is responsive to the scope of this proceeding, specifically whether the Board should determine that currently rate regulated mass market retail services are competitive pursuant to N.J.S.A. 48:2-21.19(b).

This provisional ruling is subject to ratification or other alteration by the Board as it deems appropriate during the proceedings in this matter.

DATED:

1 - 4 - 08

BY:



FREDERICK F. BUTLER  
COMMISSIONER

---

<sup>1</sup> I/M/O the Board Investigation Regarding the Reclassification of Competitive Local Exchange Carrier (CLEC) Services as Competitive, Docket No. TX06120841

**IN THE MATTER OF THE BOARD INVESTIGATION REGARDING THE  
RECLASSIFICATION OF INCUMBENT LOCAL EXCHANGE CARRIER  
(ILEC) SERVICES AS COMPETITIVE**

**DOCKET NO. TX07110873**

John DeLuca  
Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07102  
[John.deluca@bpu.state.nj.us](mailto:John.deluca@bpu.state.nj.us)

Anthony Centrella, Director  
Division of Telecommunications  
Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07102  
[Anthony.centrella@bpu.state.nj.us](mailto:Anthony.centrella@bpu.state.nj.us)

Stefanie A. Brand, Esq.  
Division of Rate Counsel  
31 Clinton Street, 11<sup>th</sup> Floor  
P.O. Box 46005  
Newark, NJ 07102  
[sbrand@rpa.state.nj.us](mailto:sbrand@rpa.state.nj.us)

Jose Rivera-Benitez, Esq.  
Division of Rate Counsel  
31 Clinton Street, 11<sup>th</sup> Floor  
P.O. Box 46005  
Newark, NJ 07101  
[jrivera@rpa.state.nj.us](mailto:jrivera@rpa.state.nj.us)

Collen A. Foley, Esq.  
Saul Ewing  
One Riverfront Plaza  
Newark, NJ 07102  
[cfoley@saul.com](mailto:cfoley@saul.com)

Christopher J. White, Esq.  
Division of Rate Counsel  
31 Clinton Street, 11<sup>th</sup> Floor  
P.O. Box 46005  
Newark, NJ 07101  
[cwhite@rpa.state.nj.us](mailto:cwhite@rpa.state.nj.us)

Jeanne W. Stockman, Esq.  
United Telephone Company of New Jersey,  
Inc.  
d/b/a Embarq  
14111 Capital Blvd.  
Wake forest, NC 27587-5900  
[jeanne.w.stockman@embarq.com](mailto:jeanne.w.stockman@embarq.com)

Mark A. Keffer  
Philip S. Shapiro  
AT&T Communications  
3033 Chain Bridge Road  
Oakton, VA 22185  
[mkeffer@att.com](mailto:mkeffer@att.com)  
[psshapiro@att.com](mailto:psshapiro@att.com)

Garnet Goins, Director & Attorney  
Benjamin J. Aron  
State Reg. Affairs, Northeast  
Region  
Sprint Nextel Corp.  
2001 Edmund Halley Drive  
Reston, VA 20191  
[Garnet.goins@sprint.com](mailto:Garnet.goins@sprint.com)  
[benjamin.aron@sprint.com](mailto:benjamin.aron@sprint.com)

Ava Marie Madeam  
Verizon New Jersey, Inc.  
540 Broad Street, 20<sup>th</sup> Floor  
Newark, NJ 07102  
[avamarie.p.madeam@verizon.com](mailto:avamarie.p.madeam@verizon.com)

Lawanda Gilbert, Esq.  
Carol Artale, Esq.  
Counsel's Office  
New Jersey Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07101  
[Lawanda.gilbert@bpu.state.nj.us](mailto:Lawanda.gilbert@bpu.state.nj.us)  
[Carol.artale@bpu.state.nj.us](mailto:Carol.artale@bpu.state.nj.us)

Patricia Campbell  
Division of Telecommunications  
New Jersey Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07101  
[Patricia.campbell@bpu.state.nj.us](mailto:Patricia.campbell@bpu.state.nj.us)

James F. Murphy  
Division of Telecommunications  
New Jersey Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07101  
[James.murphy@bpu.state.nj.us](mailto:James.murphy@bpu.state.nj.us)

Harold Bond  
Division of Telecommunications  
New Jersey Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07101  
[Harold.bond@bpu.state.nj.us](mailto:Harold.bond@bpu.state.nj.us)

Thomas Chu  
Division of Telecommunications  
New Jersey Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07101  
[Thomas.chu@bpu.state.nj.us](mailto:Thomas.chu@bpu.state.nj.us)

Mark Beyer  
Division of Economist  
New Jersey Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07101  
[Mark.beyer@bpu.state.nj.us](mailto:Mark.beyer@bpu.state.nj.us)

William Agee  
New Jersey Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07101  
[William.agee@bpu.state.nj.us](mailto:William.agee@bpu.state.nj.us)

Susan M. Baldwin  
17 Arlington Street  
Newburyport, MA 01950  
[smbaldwin@comcast.net](mailto:smbaldwin@comcast.net)

Ralph V. Lee, Esq.  
Richard Chapkis, Esq.  
Vice President & General Counsel  
Verizon NJ  
540 Broad Street, 20<sup>th</sup> Floor  
Newark, NJ 07102  
[Ralph.v.lee@verizon.com](mailto:Ralph.v.lee@verizon.com)  
[Richard.chapkis@verizon.com](mailto:Richard.chapkis@verizon.com)

Nicholas Pascaretti  
J. Stoeberl  
Warwick Valley Telephone Company  
47-49 Main Street  
Warwick, NY 10990  
[n.pascaretti@wvtc.com](mailto:n.pascaretti@wvtc.com)  
[j.stoeberl@wvtc.com](mailto:j.stoeberl@wvtc.com)

Murray E. Bevan  
William K. Mosca  
Bevan, Mosca, Giuditta & Zarillo, P.C.  
776 Mountain Blvd.  
Watchung, NJ 07069  
[mbevan@bmgzlaw.com](mailto:mbevan@bmgzlaw.com)  
[wmosca@bmgzlaw.com](mailto:wmosca@bmgzlaw.com)

Martin C. Rothfelder, Esq.  
Bradford M. Stern, Esq.  
Rothfelder Stern, L.L.C.  
625 Central Avenue  
Westfield, NJ 07090  
[mrothfelder@rothfelderstern.com](mailto:mrothfelder@rothfelderstern.com)  
[bmstern@rothfelderstern.com](mailto:bmstern@rothfelderstern.com)

Russell R. Gutshall  
EMBARQ  
240 North Third Avenue  
Suite 201  
Harrisburg, PA 17101  
[Russell.r.gutshall@embarq.com](mailto:Russell.r.gutshall@embarq.com)

Babette Tenzer, DAG  
Division of Law  
124 Halsey Street, 5<sup>th</sup> Floor  
Newark, NJ 07101  
[babette.tenzer@dol.lps.state.nj.us](mailto:babette.tenzer@dol.lps.state.nj.us)

K.C. Halm, Esq.  
Davis Wright Tremaine LLP  
1919 Pennsylvania Ave., N.W.  
Suite 2001  
Washington, DC 20006  
[kchalm@dwt.com](mailto:kchalm@dwt.com)

Cherie R. Kiser, Esq.  
Ernest Cooper, Esq.  
Mintz, Levin, Cohn, Ferns, Glovsky &  
Popeo, PC  
701 Pennsylvania Ave., N.W.  
Washington, DC 20004  
[ckiser@mintz.com](mailto:ckiser@mintz.com)  
[eccooper@mintz.com](mailto:eccooper@mintz.com)

Paul Flanagan, Assistant Director  
Division of Rate Counsel  
31 Clinton Street, P.O. Box 46005  
Newark, NJ 07101  
[pflanagan@rpa.state.nj.us](mailto:pflanagan@rpa.state.nj.us)

Richard A. Hrip  
EMBARQ  
240 North Third Ave., Suite 201  
Harrisburg, PA 17101  
[Richard.a.hrip@embarq.com](mailto:Richard.a.hrip@embarq.com)

Maria T. Novas-Ruiz, Esq.  
Division of Rate Counsel  
31 Clinton Street, P.O. Box 46005  
Newark, NJ 07101  
[mnovas-ruiz@rpa.state.nj.us](mailto:mnovas-ruiz@rpa.state.nj.us)

Geoffrey Gersten  
Jessica Campbell  
Deputy Attorney General  
Division of Law-Board of Public Utilities  
124 Halsey Street  
PO Box 45029  
Newark, NJ 07101-5029  
[geoffrey.gersten@dol.lps.state.nj.us](mailto:geoffrey.gersten@dol.lps.state.nj.us)  
[jessica.campbell@dol.lps.state.nj.us](mailto:jessica.campbell@dol.lps.state.nj.us)

Hesser McBride  
Wilentz Goldman & Spitzer  
90 Woodbridge Center Drive  
Suite 900 Box 10  
Woodbridge, NJ 070953-0958  
[hmcbride@wilentz.com](mailto:hmcbride@wilentz.com)

Kate Tasch, Esq.  
Vice President  
Legislative and Regulatory Affairs  
New Jersey Cable Telecommunications  
Association  
124 West State Street  
Trenton, NJ 08608  
[ktasch@cablenj.org](mailto:ktasch@cablenj.org)

Elana Shapochnikov  
Senior Regulatory Counsel  
Government Affairs  
Cablevision Lightpath, Inc.  
1111 Stewart Avenue  
Bethpage, NY 11714-3581  
[eshapoch@cablevision.com](mailto:eshapoch@cablevision.com)

James C. Meyer  
Riker, Danzig, Scherer, Hyland &  
Perretti, LLP  
Headquarters Plaza  
One Speedwell Ave.  
Morristown, NJ 07962  
[jmeyer@riker.com](mailto:jmeyer@riker.com)