REMARKS OF STEFANIE A. BRAND
DIRECTOR
DIVISION OF RATE COUNSEL

I/M/O the Board Investigation Regarding the Reclassification
Of Incumbent Local Exchange Carrier (ILEC)
Services as Competitive
BPU Docket No. TX07110873

Public Hearing
Thursday, February 14, 2008 @ 10:00 A.M.

Two Gateway Center, 8th floor
Newark, New Jersey 07102

Good morning, my name is Stefanie A. Brand. I am the Director of the Division of Rate Counsel, a Division within the New Jersey Department of the Public Advocate. The Division of Rate Counsel represents and protects the interests of all utility consumers - residential customers, small business customers, small and large industrial customers, schools, libraries, and other institutions in our communities. Rate Counsel is a party in cases where New Jersey utilities seek changes in their rates or services. Rate Counsel also gives consumers a voice in setting energy, water and telecommunications policy that will affect the rendering of utility services well into the future.

The present case involves requests by Verizon and Embarq (also known as United Telephone) to the New Jersey Board of Public Utilities ("Board") to reclassify local telephone services, which are protected by law, and other retail services, and declare them competitive. This would result in deregulation of those services. Rate Counsel opposes deregulation of local telephone services and other services because competition is simply inadequate to ensure that deregulation will result in rates that are fair, just, and reasonable. Rate Counsel has filed extensive testimony before the Board opposing reclassification and will participate in the evidentiary hearings scheduled for February 25 and 26, 2008. Rate Counsel's testimony is available on our website at www.state.nj.us/publicadvocate/utility/ .

The relief sought by Verizon and Embarq raises critical issues that will have serious consequences for New Jersey's telephone customers. The greatest damage will likely befall seniors, families on fixed incomes, and low income residents, but any residential customer who seeks to purchase local telephone service from Verizon or Embarq at affordable rates will be affected. If the New Jersey Board of Public Utilities ("Board") relinquishes all regulatory controls over local telephone service there will be no means to examine or stop rate increases or changes in service. Rate Counsel urges the

Board to reject the relief sought by Verizon and Embarq and maintain oversight of these essential services.

Briefly stated, Rate Counsel's opposition is based on core concerns:

<u>Deregulation of protected telephone services and other services will translate into higher rates.</u>

- During 2006 and 2007, after the Board reclassified multiline business services as competitive, Verizon NJ and various competitive local exchange carriers ("CLECs") implemented various rate increases and new charges. Verizon NJ also increased business Directory Assistance rates subsequent to the Board's determination that business Directory Assistance was competitive. These actions provide compelling evidence that Verizon NJ would likely impose similar increases on residential customers if the Board grants Verizon NJ's petition in this proceeding.

- Specific examples abound. For instance, after deregulation in New York, Verizon raised rates for caller ID by 300%, and in January 2008, raised business line rates by 10%. In Ohio, Verizon's call forwarding feature has risen to $3 a month from 75 cents in the last two years, which is a 300% increase. Verizon followed this same approach in California once deregulated.

- In New Jersey, after partial deregulation, business rates increased from a range of $10.26 to $12.96, to $17.00 (an increase of 31-68%). On January 25, 2008, Verizon increased those rates further to $18.49 (another 9% increase) and increased local per minute message rates from 6.6 cents to 8 cents (a 21% increase). The 8 cent rate is higher than rates charged for long distance.

- Thus, our history in New Jersey and the experience in other states tell us that as a company deregulates, rates go up and not down. The potential for rate shock is clear. When consumers' budgets are already facing the impact of rising electricity prices, high gasoline prices, and declining housing values, higher rates for local telephone service will add to the already heavy burden on consumers.

<u>The most vulnerable segments of the population, i.e., seniors, low income families, and families on fixed incomes, will suffer the most.</u>

- Local protected service includes the ability to make local and toll calls and the ordering, installation and restoration of "landline" telephone service. They are the basic services sought by the least sophisticated telecommunications consumers.

- Other telecommunications providers do not compete for affordable stand-alone basic local telephone service. As discussed in Rate Counsel's Reply Testimony, entry barriers such as market based rates for local switching, and high access charges preclude other companies from offering stand alone service so that consumers lack like or substitute services in relevant geographic markets.

- Other telecommunications providers do not offer comparable directory assistance services. If residential Directory Assistance were deemed competitive, Verizon NJ likely would raise Directory Assistance rates and eliminate the 4 free Directory Assistance calls that many consumers rely on.

<u>Competition has not yet developed to the level to ensure the availability of these services at just and reasonable rates.</u>

- Verizon and Embarq currently serve 83% of the customers in New Jersey who buy stand-alone local telephone service.

- Other carriers offer bundled services, which combine local and long distance service in a package. Bundles of local and long distance and stand alone services are in separate product markets. The proliferation of bundles does not represent competition for stand alone services, but instead creates pressure on the companies to raise rates for stand-alone services in order to encourage customers to migrate to bundled offerings.

- Other carriers, such as cable providers or competitive local exchange carriers, if they do offer stand-alone local service, charge more than Verizon and Embarq, and thus do not constrain Verizon's and Embarq's ability to raise rates.

- Declining CLEC use of wholesale services and Verizon's acquisition of MCI (previously a chief rival) have altered the structure of the market place. The emergence of intermodal alternatives such as wireless, VoIP, and cable telephony, does not yet constrain the rates, service quality, or terms and conditions for protected local exchange service.

- As explained in Rate Counsel's Reply Testimony, the proofs offered by the companies to demonstrate competition are flawed. For example, competitive conditions vary widely throughout the state, and thus the relevant geographic market is not the state (nor the entire territory served by Embarq), but the wire center, a much smaller market. In addition, retail line loss does not demonstrate the existence of effective competition for this particular service because line loss can be due to many factors other than competition. The FCC has consistently rejected claims that line loss is evidence of competition.

- Market failures and unresolved regulatory issues identified and discussed in Rate Counsel's Reply Testimony enable Verizon NJ and Embarq to exercise market power in their respective service territories, which preclude the development of sufficient competition in the local markets for local and other services. In particular, competitors pay excessive rates for inputs, such as local switching, and access that result in competitors having to price service offerings above Verizon and Embarq. The recent order by the Federal Communications Commission that denied Verizon's request for deregulation of wholesale services in six Metropolitan Statistical Areas ("MSA") (including New Jersey), confirms that Verizon continues to possess exclusionary market power. This is evidence that real competition does not exist and deregulation should not be permitted until we are sure that sufficient competition exists to keep prices down.

<u>Once deregulation is allowed, it will be difficult to protect consumers against price increases and service changes.</u>

- Deregulation means that rates, terms and conditions of service can be changed without regulatory scrutiny. Rate Counsel's expert has testified that price increases up to one half billion dollars could occur if local phone service is deregulated. Residential customers could see increases of up to $360 million per year if the companies raise rates close to the charge for bundled services. Under this scenario, business customers could see increases of up to $19.7 million per year. The 4 free Directory Assistance calls for residential customers could be eliminated and rates increased. Rate Counsel's estimate is that elimination of free calls and rate increases for Directory Assistance could cost ratepayers another $187 million.

- If the Board takes this extraordinary step, it will lose the ability to turn the clock back if the concerns about price increases and service come to pass. It will lose the ability to scrutinize the provision of these services. It will lose the ability to protect the public.

- The Board will also lose an important tool to ensure access to broadband, economic development, and cutting-edge programs for schools and libraries. In our changing world and economy, telecommunications are likely to become more and more essential. We should not withdraw now, leaving no assurance that everyone will have access to these basic services.

In sum, Rate Counsel urges the Board to reject the request of Verizon and Embarq to deregulate protected local telephone services and other basic services. Insufficient competition exists to ensure affordable rates. New Jersey consumers, especially the most vulnerable, should not be subject to unwarranted rate increases that deregulation would allow without any government oversight.

Thank you.