

**STATEMENT OF
COMMISSIONER KEVIN J. MARTIN**

Re: Verizon Telephone Companies Tariff FCC Nos. 1 & 11, Transmittal No. 232; CC Docket No. 02-36

I am disappointed that the Commission may have missed an opportunity to promote further the deployment of broadband services to all Americans.

Last summer, Verizon attempted to introduce a new service (Packet At Remote Terminal Service "PARTS") that would have provided new entrants with another option to use Verizon's network to provide competitive high speed internet access service to residential customers. This generally available service offering would have enabled competitors to maintain access while facilitating Verizon's attempt to provide DSL service to more residential customers. By using recently deployed network facilities, Verizon was "extending the reach" of its existing broadband network to serve remote end-users.¹

In making this voluntary offering, Verizon sought to recover the costs of providing competitors with access to its new next generation Digital Loop Carrier ("NGDLC") network by pricing the service at its incremental cost. Without full Commission input, the Wireline Competition Bureau ("Bureau") noted that it is more appropriate to require Verizon to price this service at the total element long-run incremental cost ("TELRIC") standard.

On November 18, 2002, the Bureau issued a detailed order designating the PARTS service for investigation. One week later, Verizon decided to withdraw the PARTS service as a generally available offer, and instead make such offering available only on a private carriage basis tailored to specific individual requests by new entrant carriers.

I am disappointed with Bureau's unilateral action in this tariff investigation. As I have stated previously, the TELRIC pricing formula provides incumbent service providers with an insufficient return on new investment capital for new infrastructure. Given the nature of this voluntary service offering, the Commission missed a unique opportunity here to take a more deregulatory approach and provide the incumbent with greater pricing flexibility. Such flexibility provides the type of economic incentives necessary for service providers to invest in and deploy new network infrastructure that will make broadband services available to more American consumers.

This agency's heavy handed regulatory approach fails to recognize our own data that acknowledges Cable as the dominant provider of residential high speed internet

¹ *Verizon Telephone Companies Tariff FCC Nos. 1 & 11, Transmittal No. 232, Order Designating Issues for Investigation, DA 02-3196, WC Docket 02-362, (rel. Nov. 18, 2002).*

access services. Consistent with recent admonitions from the courts and as I have stated previously, the Commission has no choice but to recognize this fact as it decides whether incumbent DSL providers should be treated as dominant carriers when they provide high speed Internet access services in competition with Cable.

This agency's apparent desire to continue to impose legacy regulation—and an unaltered TELRIC pricing regime--on all new broadband network investment and infrastructure has effectively shut down an incumbent's effort to make such facilities generally available to new competitors at prices that allow the ILEC to recover a sufficient return on investment. The long-term consequences of affirming this policy is only to further delay investment and deployment of facilities necessary to provide Americans in all regions of the country with broadband services.