

Hearing Date: June 2, 2004, at 10:00 a.m.
Objection Deadline: May 28, 2004, at 12:00 p.m.

Philip D. Anker (PA 7833)
Adam C. Dembrow (AD 2142)
WILMER CUTLER PICKERING LLP
399 Park Avenue
New York, New York 10022
(212) 230-8800

Attorneys for the telephone operating company subsidiaries of Verizon Communications Inc.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	:	Chapter 11
	:	
ALLEGIANCE TELECOM, INC., <u>et al.</u> ,	:	Case No. 03-13057 (RDD)
	:	
Debtors.	:	(Jointly Administered)

**MOTION BY THE TELEPHONE OPERATING COMPANY SUBSIDIARIES OF
VERIZON COMMUNICATIONS INC. FOR TEMPORARY ALLOWANCE OF ITS
CLAIMS FOR VOTING PURPOSES PURSUANT TO FEDERAL RULE OF
BANKRUPTCY PROCEDURE 3018**

TO THE HONORABLE ROBERT D. DRAIN,
UNITED STATES BANKRUPTCY JUDGE:

The telephone operating company subsidiaries of Verizon Communications Inc. (collectively, "Verizon"), by and through their undersigned counsel, hereby move this Court, pursuant to Federal Rule of Bankruptcy Procedure ("FRBP") 3018 for temporary allowance of its claims for voting purposes (the "Motion"). In support of its Motion, Verizon states as follows:

PRELIMINARY STATEMENT

Verizon has filed claims in these chapter 11 cases totaling \$61,569,137.73. Although the Debtors have informally indicated to Verizon that they may ultimately object to at least a portion of Verizon's claims, they have not, as of the filing of this Motion, actually done so.

Nevertheless, Verizon is filing this Motion out of an abundance of caution. The Motion has been scheduled for a hearing on an expedited basis so that a resolution can be reached in advance of the hearing on confirmation of the Debtors' Plan, which is scheduled for June 7, 2004.

BACKGROUND

1. On May 14, 2003, Allegiance Telecom, Inc. and certain of its subsidiaries (collectively, the "Debtors") filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"). Pursuant to sections 1107(a) and 1108 of the Bankruptcy Code, the Debtors continue to operate their businesses and manage their affairs as debtors-in-possession.

2. On or about November 25, 2003, Verizon filed its proof of claim (the "Claim") in the amount of \$61,532,048.73 in these cases. A copy of the Claim as filed against one of the Debtors, Allegiance Telecom of New York, Inc., is attached hereto as Exhibit A. The Debtors have not objected to the Claim.

3. On or about February 2, 2004, Verizon filed an amended proof of claim (the "Amended Claim") which asserted an additional \$37,089.00 in claims against certain of the Debtors. Accordingly, the total amount of Verizon's Claim and Amended Claim (collectively, the "Claims") is \$61,569,137.73. A copy of the Amended Claim as filed against one of the Debtors, Allegiance Telecom of New York, Inc., is attached hereto as Exhibit B. The Debtors have not objected to the Amended Claim.

4. On March 18, 2004, the Debtors' filed their chapter 11 plan of reorganization (the "Plan") and the related disclosure statement (the "Disclosure Statement"). On the same day, the Debtors filed their Motion for an Order (I) Approving the Disclosure Statement; (II) Establishing

a Record Date; (III) Approving Solicitation Packages and Procedures for Distribution Thereof; (IV) Approving Forms of Ballots and Establishing Procedures For Voting on the Plan ; and (V) Establishing Notice and Objection Procedures for Confirmation of the Plan (the “Procedures Motion”).

5. The Disclosure Statement, as amended, as well as procedures for voting on the Plan and for tabulating such votes, were approved by this Court on April 22, 2004, as per its order granting the Procedures Motion (the “Final Procedures Order”). The Final Procedures Order specifies that “[s]olely for purposes of voting to accept or reject the Plan . . . each claim within a class of claims entitled to vote to accept or reject the Plan shall be temporarily allowed in an amount equal to the amount of such claim as set forth in a timely proof of claim[.]” Nevertheless, because the Debtors have indicated that they may object to at least some of the Claims, Verizon is today filing this Motion.

RELIEF REQUESTED

6. Section 502(a) of the Bankruptcy Code provides that “[a] claim or interest, proof of which is filed under section 501 of this title, is deemed allowed, unless a party in interest... objects.” Accordingly, Verizon seeks the temporary allowance of the Claims for voting purposes only in the total amount of \$61,569,137.73. Although Verizon will have additional claims if the Debtors reject any Verizon contracts, Verizon is not seeking at this time to vote any such rejection claims.

7. FRBP 3018(a) provides in relevant part that “[n]otwithstanding [an] objection to a claim or interest, the court after notice and hearing may temporarily allow the claim or interest in an amount which the court deems proper for the purpose of accepting or rejecting a plan.” A

motion seeking temporary allowance of a claim for voting purposes may be filed any time before votes are tallied. See In re Stone Hedge Properties, 191 B.R. 59, 64 (Bankr. M.D. Pa. 1995). Temporary allowance of a claim is appropriate where a full hearing on the objection to the claim would delay administration of the case. See, e.g., In re Gardinier, 55 B.R. 601 (Bankr. M.D. Fla. 1985); In re Zolner, 173 B.R. 629 (Bankr. N.D. Ill. 1994).

8. Temporary allowance should be considered in light of the “underlying purpose of the Code.” Stone Hedge Properties, 191 B.R. at 63-64. Because Rule 3018 allowance is in connection with voting, a court should look to whether the debtor scheduled the claim (the Debtors scheduled debt owing to Verizon), the proof of claim filed by the claimant (\$61,569,137.73), and the objection (none filed). Id. at 65. “Temporary allowance will be appropriate when the objection was filed too late to be heard prior to the confirmation hearing, when fully hearing the objection would delay administration of the case, or when the objection is frivolous or of questionable merit.” 9 Collier on Bankruptcy ¶ 3018.01[5] (15th ed. revised 2004).

9. Clearly, in this situation, temporary allowance of Verizon’s Claims is warranted. No objection to the Claims has been filed. Moreover, from the very outset of these cases, the Debtors have acknowledged that Verizon has substantial prepetition claims. They listed Verizon in their list of their forty largest unsecured creditors as their largest unsecured trade creditor. Indeed, in court on Thursday, the Debtors acknowledged that, by their own calculation, Verizon’s claims under only four of its contracts with Allegiance total \$25 million or more.

10. Verizon reserves all of its rights with respect to its Claims.

11. Finally, because there are no novel issues of law presented herein, Verizon respectfully requests that this Court waive the requirement of Local Bankruptcy Rule 9013-1(b) that Verizon file a separate memorandum of law in support of this Motion.

CONCLUSION

WHEREFORE, Verizon requests that this Court (i) temporarily allow, for voting purposes only, its Claims in the total amount of \$61,569,137.73, and (ii) grant Verizon such other and further relief as this Court deems appropriate.

Dated: May 21, 2004

Respectfully Submitted,

WILMER CUTLER PICKERING LLP

/s/ Philip D. Anker
Philip D. Anker (PA 7833)
Adam C. Dembrow (AD 2142)
399 Park Avenue
New York, New York 10022
(212) 230-8800

Attorneys for the telephone operating company
subsidiaries of Verizon Communications Inc.