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June 1, 2007

VIA ELECTRONIC MAIL AND US Mail

Joseph M. Ruggiero, Esq.
Assistant General Counsel
Verizon Inc.
1515 N. Courthouse Rd., Ste. 500
Arlington, VA 22201

Re: Cavalier Telephone Company Mid-Atlantic, LLC v. Verizon Pennsylvania Inc.,
Docket No. C-20055343

Dear Mr. Ruggiero:

Enclosed please find the remainder of Cavalier Telephone Mid-Atlantic, LLC's Supplemental Discovery Responses in the above-captioned matter. As you know, by email dated April 24, 2007, Verizon previously identified specific Interrogatories that it deemed critical for Deposition preparation. Cavalier provided responses to all of those identified Interrogatories on April 27, 2007.

The Depositions in this matter are mostly complete, and therefore, Cavalier is now providing responses to the remainder of the Interrogatories identified at the Discovery Conference before ALJ Weismandel. Included herewith are responses to the following Verizon Interrogatories:

Set I- 4, 5, and 32

Set II - 3-9, 25, 87-101, 107-136, 143, and 152.

As you know fully well, most of the above referenced Interrogatories relate to matters addressed in Verizon's Interrogatories propounded in the pending PA PUC case at Docket No. C-20067132, to which Cavalier responded on May 14, 2007. Furthermore, as you can see by the responses, the overwhelming majority of these Interrogatories relate to a type of service (tandem transit service) for which Cavalier has no customers. As such, even though Cavalier has provided responses, these Interrogatories have no bearing whatsoever on the case at bar.

Accordingly, in light of the responses enclosed herewith, and the supplemental responses provided prior to the Depositions, and the prior responses provided in the C-20067132 case, Cavalier respectfully requests that Verizon withdraw the Motion for Sanctions that was filed today in this matter.

Should you have questions, please do not hesitate to contact me. As you know, Cavalier and Verizon have multiple overlapping cases underway in several jurisdictions, and as the ALJ has noted, it is incumbent upon counsel to communicate with one another to resolve discovery disputes in a reasonable fashion. In the future, if you believe you have not received discovery responses which you feel are due or overdue, all you have to do is contact Rick Hicks or myself and give us a reasonable chance to confer with our client and respond before you unnecessarily seek to involve the ALJ.

Best regards,

STEVENS & LEE

Michael A. Gruin

Enclosure
cc: Renardo L. Hicks
Sharon Glover, Esq. (via electronic mail only)
Steve Perkins Esq. (via electronic mail only)
Austin Schlick (via electronic mail only)
Scott Attaway (via electronic mail only)
ALJ Wayne Weismandel (w/o enclosures)

Joseph M. Ruggiero
Regulatory Counsel

1515 North Court House Road
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Arlington, VA 22201
Voice:(703) 351-3824
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Email: joseph.m.ruggiero@verizon.com

June 7, 2007

VIA ELECTRONIC MAIL AND FIRST CLASS U.S. MAIL

Michael A. Gruin, Esquire
Stevens & Lee
17 North Second Street
16th floor
Harrisburg, Pennsylvania 17101

Re: Cavalier Telephone Company Mid-Atlantic, LLC v.
Verizon Pennsylvania Inc. - Docket No. C-20055343

Dear Mr. Gruin:

Verizon responds to your letter of June 1, 2007. While Verizon disagrees with its many mischaracterizations, Verizon particularly disputes that it is possible for Cavalier to moot Verizon's Motion for Sanctions by slapping together an untimely "supplementation" after Verizon gave Cavalier notice of its intended motion. Your purported response is a nullity. Not only is it 16 months late, not only does it follow a motion to compel, a motion for sanctions, an all-day hearing with Administrative Law Judge Weismandel, and two direct orders by the ALJ, but it comes, incredibly, two weeks later than the ALJ's firm deadline of May 18, 2007. Moreover, Cavalier only filed this supplementation *after* counsel for Verizon and Cavalier conferred and Verizon filed its Motion for Sanctions. Indeed, your attempt to explain away Cavalier's disregard of the ALJ's orders and failure to answer **58** requests to which Cavalier committed to providing a response, suggests a fundamental lack of respect for Cavalier's obligations as a party to this proceeding.

Contrary to your suggestion, there could have been no misunderstanding about Cavalier's obligations. Your assertion that all Verizon has to do is "give [you] a reasonable chance to confer with your client" in order for Cavalier to comply with discovery is remarkable. That is precisely what Verizon has done repeatedly, and not even a day-long hearing with the ALJ was sufficient to garner Cavalier's compliance. Cavalier alone is responsible for its

sanctionable misconduct. Nothing in your letter, or Cavalier's "supplementation," provides any basis to excuse Cavalier's willful discovery violations.

Moreover, even if Cavalier's belated "supplementation" were relevant to Verizon's motion – and it is not – it is woefully incomplete. The "supplementation" included exactly **zero** documents and is patently insufficient, whether by reference to the requests themselves, or by reference to the transcript of the April 18, 2007 hearing. Even if it were timely –and it is not - this "supplementation" could not possibly be interpreted as a good faith effort to comply with the ALJ's orders.

Cavalier's misconduct has substantially prejudiced Verizon, as the ALJ recognized even before Cavalier's latest misconduct. That prejudice, and the costs imposed upon Verizon by Cavalier's actions, cannot be undone. In any case, Cavalier's conduct in this proceeding is, by itself, deserving of the sanction of dismissal. Cavalier is the plaintiff, came to this Commission seeking redress, and then flouted its rules repeatedly.

Accordingly, Verizon rejects Cavalier's request that Verizon withdraw its Motion for Sanctions.

Sincerely,

Joseph M. Ruggiero

cc: David A. Hill, Esq. (via electronic mail only)
Cynthia Randall, Esq. (via electronic mail only)
Keith Buell, Esq. (via electronic mail only)
Renardo L. Hicks, Esq. (via electronic mail only)
Sharon Glover, Esq. (via electronic mail only)
Steve Perkins, Esq. (via electronic mail only)
Austin Schlick, Esq. (via electronic mail only)
Scott Attaway, Esq. (via electronic mail only)
ALJ Wayne Weismandel (via First Class U.S. Mail)

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June 11, 2007

VIA FEDERAL EXPRESS
Secretary James J. McNulty
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg , PA 17120

RECEIVED
JUN 11 2007
PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Re: **Cavalier Telephone Mid-Atlantic, LLC v. Verizon Pennsylvania, LLC**
Docket No. C-20055343

Dear Secretary McNulty:

Enclosed for filing please find an original plus three (3) copies of Cavalier Mid-Atlantic, LLC's Motion to Strike and Answer to the Motion to Dismiss as a Sanction for Cavalier's Failure to Provide Discovery Responses as Directed in the above captioned matter. Copies of the forgoing document have been served in accordance with the attached Certificate of Service.

Please note that an Exhibit to this document contains Proprietary and Confidential Information, and therefore a separate document without the Proprietary Material is being included for public record.

If you have any questions, please feel free to contact me.

Very truly yours,

STEVENS & LEE

Michael A. Gruin

DOCUMENT FOLDER

MAG:toa
Encl.
cc: Administrative Law Judge Wayne Weismandel
Certificate of service

136

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April 27, 2007

VIA ELECTRONIC MAIL AND FEDERAL EXPRESS

Joseph M. Ruggiero, Esq.
Assistant General Counsel
Verizon Inc.
1515 N. Courthouse Rd., Ste. 500
Arlington, VA 22201

Re: Cavalier Telephone Company Mid-Atlantic, LLC v. Verizon Pennsylvania Inc.,
Docket No. C-20055343

Dear Mr. Ruggiero:

Enclosed please find Cavalier Telephone Mid-Atlantic, LLC's partial Supplemental Discovery Responses in the above-captioned matter. Specifically, Cavalier is providing supplemental responses to all of the specific Interrogatories identified by you in your April 24, 2007 email to Rick Hicks as being critical for deposition preparation purposes.

Also enclosed are documents referenced in the Supplemental Discovery Responses. Documents bearing Bates numbers CAV-09088 through CAV-11533 are being provided in electronic format on the enclosed CD-ROM. Hard copies of the "Process Flow Description" documents that were transmitted to you yesterday via email are also enclosed herewith (Bates numbers CAV-11534 through CAV-11539).

Cavalier will endeavor to provide the remainder of its Supplemental Discovery Responses as soon as possible, consistent with ALJ Weismandel's directives at the April 18, 2007 Discovery Conference.

Should you have questions, please do not hesitate to contact me.

Best regards,

STEVENS & LEE

Michael A. Gruin

Enclosure
cc: Renardo L. Hicks
Sharon Glover, Esq. (via electronic mail only)
Steve Perkins Esq. (via electronic mail only)
Austin Schlick (via electronic mail only)
Scott Attaway (via electronic mail only)

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ORIGINAL

CAVALIER TELEPHONE
MID-ATLANTIC, LLC,

Complainant

Docket No. C-20055343

v.

VERIZON PENNSYLVANIA INC.,

Respondent

CAVALIER TELEPHONE MID-ATLANTIC'S MOTION TO STRIKE AND ANSWER TO VERIZON'S MOTION TO DISMISS

And Now, comes the Complainant, Cavalier Telephone Mid-Atlantic, LLC ("Cavalier"), by and through its counsel, Stevens & Lee, and hereby moves to Strike the "Motion to Dismiss as a Sanction for Failure to Provide Discovery Responses as Directed" filed by Verizon Pennsylvania, Inc. ("Verizon") . Alternatively, Cavalier Answers the Motion and in further support thereof, avers as follows:

MOTION TO STRIKE

1. Verizon's Motion should be stricken for failure to comply with multiple Commission regulations.

2. 52 Pa. Code §1.31(a), states that "*all pleadings must be divided into numbered paragraphs*".

3. According to 52 Pa. Code §5.1(a)(6), Motions are a form of pleadings.

4. Verizon's Motion is not divided into numbered paragraphs, in violation of 52 Pa. Code §1.31(a). Verizon's failure to follow the Commission's clear regulations regarding

the form of Motions impairs Cavalier's ability to file a responsive pleading, and as a result, Verizon's Motion should be stricken.

5. Verizon's Motion also violates 52 Pa. Code § 5.103(b) which states that "*Written motions must contain a notice which states that a responsive pleading shall be filed within 20 days of the date of service of the motion.*" Verizon's fails to include a Notice to Plead, and as a result Verizon's Motion should be stricken.

WHEREFORE, for the foregoing reasons, Cavalier respectfully requests that Verizon's Motion to Dismiss as a Sanction for Failure to Provide Discovery Responses as Directed be Stricken for failure to comport with multiple Commission's regulations.

ANSWER TO MOTION

6. Verizon's Motion to Dismiss represents a cynical, and to some extent deceitful, attempt to avoid addressing the merits of this case.

7. After sifting through the mountains of hyperbole and "spin", Verizon's Motion boils down to this: Cavalier was 14 days late in providing supplemental responses to 58 Interrogatories that Verizon itself admits were non-critical for its case preparation.

8. Cavalier admits that it was late in providing supplemental responses to the 58 Interrogatories in question. However, Cavalier respectfully submits that 1) there was nothing willful about its lateness in filing responses, 2) Verizon has not been prejudiced in the least by the delay in receiving the supplemental responses.

Background

9. On September 1, 2005, Cavalier filed a Complaint alleging that, since September 2004, Verizon has disputed, and refused to pay, approximately $1.9 million of the approximately $3.0 million in access charges billed to Verizon by Cavalier for traffic delivered from Verizon to Cavalier.[1] Cavalier further averred in its Complaint that the percentage of charges disputed by Verizon had risen to almost 70% of the amount billed each month and that Cavalier billed these amounts pursuant to its tariffs and its November 12, 1999 interconnection agreement with Verizon.[2]

10. On October 13, 2005, Verizon filed its Answer, New Matter and Counterclaim in this proceeding, denying Cavalier's claims and averring that Verizon believes its disputes to be valid and therefore considers these charges to be overpaid by $271, 622.61.[3]

11. On November 1, 2005, Cavalier filed its Answer to Verizon's New Matter and Counterclaim, specifically denying that Verizon overpaid Cavalier by $271, 622.61.[4]

12. Subsequently. Verizon, filed a Complaint against Cavalier to initiate a separate Commission proceeding at Docket No. C-20067132 regarding a billing dispute regarding traffic sent from Cavalier to Verizon.

13. Verizon served its Set I discovery requests on February 6, 2006. On February 16, Cavalier Objected to every one of Verizon's Set I discovery requests. On March 15,

---

1 Cavalier Complaint, Docket No. C-20052343, September 1, 2005 at page 1, paragraph 1. A summary of amounts billed, disputed, paid, and due is attached to Cavalier's Complaint as Exhibit "1."

2 Id.

3 Verizon Answer, New Matter and Counterclaim, Docket No C-20052343, October 13, 2005 at page 4, paragraph 1.

4 Answer of Cavalier to Verizon's New Matter and Counterclaim, Docket No C-20052343, November 1, 2005 at page 2, paragraph 2.

2006, after several discussions to resolve the disputes over Verizon's Set I requests, Verizon sent Cavalier a letter to clarify and amend its Set I discovery Requests.

14. On March 27, 2006, Cavalier provided Responses to Verizon's clarified Set I discovery requests.

15. On March 20, 2006, Verizon served on Cavalier its Second Set of Interrogatories and Requests for Production of Documents.

16. Cavalier properly objected to Verizon's Set II Discovery Requests on March 24, 2006.

17. On March 30, 2006, Verizon filed a Motion to Compel Answers to its Set I and Set II Discovery Requests.

18. One day after Verizon filed its Motion to Compel, Verizon's former counsel Anthony Gay agreed to suspend the all litigation of this case and refer the case to mediation. Verizon's counsel's agreement was confirmed by a March 31, 2006 email from Cavalier counsel Michael Gruin to Anthony Gay of Verizon. The email stated:

"This email will confirm the conversation we had yesterday regarding the resolution of open discovery issues pending between the parties in this matter. Cavalier and Verizon have agreed as follows:

- The parties will continue to work together to resolve their open discovery issues, starting with a conference call scheduled for Tuesday, April 4. The parties will attempt to clarify or narrow any objected-to request, and supplement or expand any response deemed to be insufficient or missing.
- **The parties agree to suspend the filing of pleadings on discovery related issues, including objections, motions to compel, and replies to motions to compel, until the completion of the Mediation scheduled for April 19.**
- If the Mediation fails to result in a settlement and the case is re-listed for hearing, the parties preserve their rights to compel discovery responses related to any discovery request propounded in this matter. It is anticipated that discussions between the parties will narrow the discovery issues in dispute, and that if any discovery issues remain at the conclusion of the Mediation, they can be addressed in omnibus discovery motions and replies.

If this is not your understanding of our agreement, please let me know.

19. Verizon's counsel never disputed this agreement, and the parties proceeded with a discovery –related conference call on April 4, 2006, and subsequently with mediation

with Mediator Herbert Nurick. It is undisputed that all discovery disputes in this matter were stayed pending the outcome of mediation.

20. With mediation unsuccessful, this matter was referred back to the litigation track, beginning with a second Pre-hearing Conference before ALJ Weismandel on February 8, 2007.

21. At the February 8, 2007 Pre-hearing Conference, the ALJ outlined a specific procedure to resolve the outstanding discovery disputes between the parties. This specific procedure did not include the filing of a Response to the Verizon Motion to Compel that had laid dormant for over 10 months. Instead, the ALJ instructed the parties to provide supplemental discovery responses and responses to previously unanswered requests by February 26, 2007. This deadline was also set forth in ALJ Weismandel's Scheduling and Briefing Order. Verizon's Motion to Compel was never addressed at the Pre-hearing Conference, nor in the ALJ's Scheduling and Briefing Order. It is Cavalier's position that neither the parties nor the ALJ expected that Cavalier would file a Reply to the Motion to Compel that had laid dormant for 10 months. Rather, as clearly addressed at the Pre-hearing Conference and in ALJ Weismandel's Scheduling and Briefing Order, the parties were expected to supplement all discovery responses by February 26, 2007.

22. On February 15, 2007, Cavalier sent Verizon a detailed letter which clearly outlined the specific discovery requests for which Verizon still owed a response.

23. On February 21, 2007, Verizon sent Cavalier a letter demanding responses from Cavalier prior to the February 26 deadline.

24. On February 22, 2007, counsel for Cavalier and Verizon held a telephonic conference so that Verizon could clarify which discovery requests were not satisfactorily answered by Cavalier.

25. On February 26, 2007, Cavalier provided Verizon with *1)* narrative responses to each of Verizon's identified discovery requests including, notably, Verizon requests No. I-1, I-2, II-13, II-14, and II-21; and *2)* voluminous documentation in response to Verizon's identified Discovery Requests. Cavalier transmitted all of the information in electronic format, via CD-Rom, as agreed by the parties. The information provided by Cavalier included the summary reports of the switch data that serves as backup for the invoices issued to Verizon for the months that Verizon identified (June and July 2005). .

26. Also, by email on February 26, 2007, Cavalier's counsel indicated that Cavalier was continuing to gather relevant information, and would be further supplementing its discovery responses.

27. Beginning on February 26, 2007, counsel for Verizon attempted to fabricate another discovery dispute regarding the parties' understanding of the logistics of trading supplemental discovery, which is set forth at length in an email sent from Cavalier's counsel to Verizon on February 28, 2007. The parties agreed that Cavalier would continue to supplement its discovery responses after February 26, 2007, as set forth in Cavalier's counsel's email of February 28, 2007.

28. On March 2, 2007, Cavalier supplied Cavalier with another voluminous batch of documentation in response to Verizon's Discovery Requests. This information consisted of paper copies of emails, documents, spreadsheets and reports, bearing bates stamp numbers 00001 through 00562 . Cavalier also transmitted a 2nd CD-ROM with

additional reports and spreadsheets supporting Cavalier's position in this matter and responsive to Verizon's discovery requests. This second CD-ROM bears bates stamp number 00563.

29. Verizon did not file a Motion to Compel Answers to its Discovery Requests, despite the fact the Cavalier reiterated its Objections to each of Verizon's Requests. Instead, more than 30 days after Cavalier provided its voluminous supplemental Discovery Responses, Verizon filed a Motion for Sanctions.

30. Cavalier filed a response to Verizon's first Motion for Sanctions on April 9, 2007.

31. On April 18, 2007, counsel for both parties participated in an all-day discovery conference before Administrative Law Judge Wayne Weismandel.

32. As a result of the discovery conference, Cavalier was directed to provide supplemental responses to multiple interrogatories.

33. On April 19, 2007, ALJ Weismandel issued a Revised Scheduling and Briefing Order in this matter, which established June 15, 2007 as the close of discovery in this matter. The Order also required that previously propounded discovery shall be answered and previously made responses shall be supplemented in accordance with the provision of 52 Pa. Code 5.332 and the instructions given and agreements made at the April 18, 2007 discovery conference, not later than Friday May 18, 2007.

34. On April 20, 2007, counsel for Verizon conferred with counsel for Verizon to discuss a process for the exchange of critical discovery in preparation for the numerous upcoming depositions scheduled in this matter.

35. On April 24, 2007, counsel for Verizon sent the following email to counsel for Cavalier (a copy of the email is attached hereto as Exhibit 1):

"On our Friday, April 20 call, we agreed that, on Tuesday morning, April 24, the parties would exchange lists of the Pennsylvania requests that are most important for the depositions it plans to take, recognizing however that each party has the right to seek to recall a deponent based on discovery responses not timely received. Here is Verizon's list:

Verizon PA Set I Requests: 1, 2, 6, 7, 13-16, 22, 23, 28, 30, 31, 36

Verizon PA Set II Requests: 11-14, 21, 137-40, 143, 146, 155-57

We request your responses by Thursday, April 27, 2007."

36. On April 27, 2007, Cavalier provided supplemental responses to each of the above referenced "most important" interrogatories identified by Verizon, including the detailed process flow description sought by Verizon. A copy of Cavalier's April 27, 2007 supplemental responses is attached hereto as Exhibit 2.

37. Beginning on May 1, 2007 the parties conducted multiple depositions in connection with Cavalier's pending Carrier Access Billing Complaints in Pennsylvania, Delaware, Virginia, and New Jersey. The following parties were deposed, at the following dates and places:

Walt Cole of Cavalier	Richmond, VA	May 1, 2007
Mary Clift of Cavalier	Richmond, VA	May 2, 2007
John Haraburda of Cavalier	Richmond, VA	May 4, 2007
Brett Cameron of Cavalier	Richmond, VA	May 14, 2007
Jonathan Smith of Verizon	Arlington, VA	May 8, 2007
Sherry Hessenthaler of Verizon	Arlington, VA	May 9, 2007
Karen Petzold of Verizon	Arlington, VA	May 10, 2007
Lisa Peterson of Verizon	Arlington, VA	May 15, 2007
William Munsell of Verizon	Arlington, VA	May 16, 2007
Michael J. Tartaglione of Verizon	Arlington, VA	May 18, 2007

Karen Dion of Verizon	Arlington, VA	May 23, 2007
Sandy McMurtry	Boston, Massachusetts	May 23, 2007
Christina Pagonis	Boston, Massachusetts	May 24, 2007

38. On May 14, 2007, Cavalier provided responses to Verizon's Interrogatories in the parallel case pending before the Commission at Docket No. C-20067132 (Verizon's Complaint for Breach of Interconnection Agreement by Cavalier). In those responses Cavalier reiterated what it had already stated on the record on multiple occasions- that Cavalier does not generate EMI records. A copy of Cavalier's Responses to Verizon Interrogatories, Set I, in the case at Docket No. C-20067132 is attached hereto as Exhibit 3.

39. On June 1, 2007, Cavalier electronically served supplemental discovery responses to the remainder of the Interrogatories that were identified at the April 18, 2007 discovery conference. A copy of Cavalier's June 1, 2007 supplemental responses are attached hereto as Exhibit 4.

40. On June 1, 2007, Verizon mailed the present Motion to Dismiss, for filing on June 4, 2007.

Argument

41. Cavalier admits that it did not provide all of the supplemental responses identified at the discovery conference by the May 18, 2007 deadline specified in the Revised

Scheduling and Briefing Order. And for the record, Cavalier wishes to formally apologize for the delay in providing the remaining supplemental responses. However, Verizon's request for a dismissal based on this oversight by Cavalier is completely unreasonable and unwarranted, and evidences a certain level of deceit that should not be rewarded. None of the 58 Interrogatories at issue were designated as important by Verizon for deposition purposes, and, the large majority of the Interrogatories relate to a type of service (tandem transit service) for which Cavalier has exactly zero customers.

42. When examined in their totality, Cavalier's actions since the April 18, 2007 discovery conference certainly have not prejudiced Verizon, and certainly do not warrant dismissal of this matter.

43. Shortly after the discovery conference, counsel for both parties conferred in order to prioritize the supplemental discovery responses that were being sought, in light of the upcoming 14 depositions.

44. By email dated April 24, 2007, Verizon identified 28 Interrogatories that it deemed "most important" for Deposition preparation, and demanded responses by April 27, 2007. A copy of the April 24, 2007 email is attached hereto as Exhibit 1. **On April 27, 2007 – a mere three days after Verizon's email and a mere nine days after the discovery conference– Cavalier provided supplemental responses to all 28 of Verizon's self-identified "most important" discovery requests.** Included in Cavalier's April 27, 2007 supplemental response was the detailed process flow description requested by Verizon. In order to meet the short turnaround time demanded by Verizon, suffice it to say that several Cavalier technical personnel put in an extraordinary amount of time and effort to prepare process flow information.

45. Amazingly, Verizon's Motion for Sanction now claims that Verizon was prejudiced because Cavalier did not provide supplemental responses to the remaining, "non-critical" Interrogatories in time for the 14 depositions held in May. (See Verizon's Motion, page 9). This is blatantly false and intentionally misleading. Verizon's present Motion relates to the late-filing of 58 discovery responses that it had deemed "not important" for deposition preparation. Yet, in its Motion, Verizon is claiming that it was prejudiced because it did not receive supplemental responses to those 58 Interrogatories prior to the depositions.

46. Either Verizon is lying now, in saying that it has been prejudiced, or Verizon lied to Cavalier on April 24, when it did not identify these 58 Interrogatories as being critical for deposition preparation. Regardless of when Verizon lied, the simple fact is that Cavalier provided Verizon with supplemental responses to all of the discovery requests identified by Verizon as important for deposition preparation within the time frame demanded by Verizon.

47. Verizon's allegations of prejudice simply do not hold water. Cavalier has now provided responses to all of the Interrogatories identified at the discovery conference – both the Interrogatories identified as "most important" by Verizon and those not identified as "most important". Verizon was in receipt of the "most important" responses on April 27, and the less important responses on June 1, which gives Verizon more than ample time to supplement its testimony by July 13 and to prepare for hearing on August 14.

48. Verizon's claims of prejudice are greatly exaggerated, because Verizon already had received all of the information in Cavalier's possession that responsive to the 58

"less important" Interrogatories at issue well in advance of the testimony filing deadline and the hearing deadline, as set forth below.

Verizon Set I, Requests 4, 5 and 32.

49. First, with respect to Verizon Set I Interrogatories 4, 5 and 32, Verizon had in its possession all information that was responsive to these Interrogatories.

50. In Set 1, Request 4, Verizon asked that Cavalier describe the facts upon which it relies to support the allegations of its Complaint, and its defenses to Verizon's Counterclaim. Cavalier was ordered to supplement its prior response "as necessary", *see* Discovery Conference Tr. at 122:7-20. At the discovery conference, Mr. Ruggierio stated that "the only import of this question is to make sure we have everything in order to prepare for the hearing in this matter. And, if counsel is representing that we will have that, then we don't have any complaint." Discovery Conference Tr. at 120:18-22. And later "If you have documents that respond to this requests that aren't, as Mr. Gruin says, already part of the record, or to the extent that you obtain them going forward, we would just ask that you provide those documents." Discovery Conference Tr. at 122:10.

51. As stated in Cavalier's June 1, 2007 supplemental response to Verizon Set I, Request 4, "At this time, Cavalier believes that every fact upon which Cavalier intends to rely has been set forth in its pleadings, prior discovery responses, and pre-filed written testimony. If Cavalier identifies any additional facts, it will supplement this response accordingly." In short, all facts that Cavalier intends to rely upon have been set forth ad nauseum in this proceeding. It is truly unreasonable for Verizon to say it has been

prejudiced because of Cavalier's 14 day delay in confirming that all of the facts upon which it intends to rely have already been placed in the record.

52. The same holds true for Cavalier's supplemental response to Verizon Set 1, Request 5, which asked that Cavalier specify which provisions of the parties' interconnection agreement Verizon allegedly has breached, and to Verizon Set 1, Request 32, which asked that Cavalier identify the sections of the parties' interconnection agreement that, Cavalier believes, provides a basis for allocating calls and access charges. Verizon has had this information in its possession for over a year now.

53. As stated in Cavalier's June 1, 2007 supplemental response to Verizon Set I, Request 4 "The relevant contract language is contained in the ICA between the parties - specifically Part A, Attachment I, III, IV and VIII – and Amendment 3 - specifically section 2.2 and 2.5. Cavalier also contends that Verizon is in violation of the MECABS guidelines. **Please refer to the written Surrebuttal testimony of John Haraburda, which contains a detailed analysis of Verizon's breaches beginning on Page 6."** A copy of Mr. Haraburda's Surrebuttal testimony is attached hereto as Exhibit 5.

54. As stated in Cavalier's June 1, 2007 supplemental response to Verizon Set I, Request 32, the specific ICA section that provides a basis for allocating calls and access charges is Attachment III and IV to the ICA, as explained in the testimony of John Haraburda.

55. The testimony of John Haraburda, along with the remainder of Cavalier's testimony was filed between February 3, 2006 and March 17, 2006, over a year ago. In its pre-filed written testimony, Cavalier set forth in great detail the specific provisions of the ICA upon which it will rely to prove Verizon's breach. Verizon's claims of prejudice

due to Cavalier's 14 day delay in filing these supplemental responses are truly puzzling considering that Verizon has had Cavalier's testimony in its possession for over a year.

Verizon Set II, Requests 3 -9, 25, 143 and 152.

56. Verizon also alleges that Cavalier's 14 day delay in responding to these 11 Interrogatories has caused it undue prejudice. Again, Verizon's claims of prejudice are not reasonable or legitimate.

57. The majority of the above-referenced requests seek information about Cavalier's "EMI" records. However, as Verizon fully knows and as Cavalier has repeatedly admitted, Cavalier does not generate EMI records. Cavalier confirmed this in its Answer to the Verizon Complaint in the matter at Docket No. C-20067132, and again in Cavalier's responses to Verizon's Set I discovery in that matter (Exhibit 2 hereto). For the remaining questions that did not pertain to EMI records, Cavalier provided a response on June 1, 2007, and the 14 day delay in receiving this information has in no way prejudiced Verizon.

Set 2, Requests 87 Through 101 and 107 Through 136

58. Nearly all of these 43 questions relate to Cavalier's "tandem transit service". As indicated at the discovery conference by Cavalier, many of the hypotheticals propounded by Verizon in these Interrogatories simply do not occur in the real world because Cavalier does not have (and have never had) a customer use this service. In its June 1, 2007 supplemental response, Cavalier reiterated that these call scenarios do not exist, and

that Cavalier is unable to answer the questions. Furthermore, to the extent that the question could be modified to relate to access traffic, the updated detailed process flow document provided to Verizon on April 27, 2007 clearly and thoroughly provides Verizon with information that is responsive to these requests.

Summary

59. Verizon's Motion relies heavily on recounting Cavalier's past discovery "sins". However, Cavalier respectfully submits that the relief that Verizon seeks simply is not justified in light of Cavalier's actions since being "taken to task" for those past sins.

60. Cavalier does not deny that it did not comply with the letter of the Revised Scheduling Order in this matter. The Scheduling Order required supplemental responses to be served by May 18, 2008, and Cavalier did not serve all of its responses until June 1, 2007.

61. However, Cavalier respectfully submits that it did not intentionally disregard the Scheduling Order, and that Cavalier substantially complied with the ALJ's directives at the Discovery Conference.

62. After the Discovery Conference, Cavalier immediately focused on providing Verizon with the responses that Verizon deemed most important in time for the May depositions. Verizon cannot deny that it received all of the information it had deemed most important in a timely manner.

63. After supplying the initial batch of most important information, both parties turned to the challenging deposition schedule in this matter, which as Verizon noted "required the attendance of 14 witnesses for as long as two days of questioning per witness, hundreds of hours of attorney time on both sides, and substantial travel costs."

64. The depositions concluded on May 24, and in all honesty, Cavalier simply neglected to supplement the remaining, less important discovery responses by May 18, 2007. However, upon learning of the deficiency, Cavalier immediately filed the remaining supplemental responses.

65. If the 58 interrogatories at issue and Cavalier's supplemental responses thereto are reviewed, it cannot reasonably be held that Verizon was prejudiced by a 14 day delay in receiving Cavalier's responses, because

- Verizon had nearly all of the responsive information in its possession long before the May 18, 2007 supplemental discovery deadline,

- Many of the Interrogatories at issue relate to EMI records in the possession of Cavalier, and Verizon knows fully well that Cavalier does not generate EMI records, because Cavalier notified Verizon of this fact on numerous occasions well before May 18, 2007

- Many of Verizon's Interrogatories relate to a type of service (tandem transit service) for which Cavalier has no customers

- Discovery in this matter remains open until June 15, 2007,

-Supplemental testimony is not due in this matter until July 13, 2007, and

- The hearing in this matter does not commence until August 14, 2007.

66. As Verizon has acknowledged, both parties have invested hundreds, if not thousands, of hours in drafting and responding to discovery in this matter, preparing for and attending mediations sessions, preparing for and attending depositions. Likewise, the Commission staff, most notably Mediator Nurick and ALJ Weismandel, have invested long hours in the mediation and litigation of this case. It would truly be a travesty for this matter to be dismissed, after the parties and Commission staff have invested this

much time and effort, based on a 14-day delay in providing supplemental responses to discovery requests, when the hearing in this matter is still over two months away.

For the all the reasons stated above, Cavalier respectfully requests that Verizon's Motion to Dismiss be Denied.

Respectfully submitted,

Stevens & Lee

DATE: June 11, 2007

Michael A. Gruin, Esq.
Attorney ID No. 78625
Renardo L. Hicks, Esq.
Attorney ID No.: 40404
17 N. 2nd St.,16th Floor
Harrisburg, PA 17101
Tel. (717) 255-7364
Fax (610) 988-0851
FOR: Cavalier Telephone Mid-Atlantic LLC

CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of June, 2007 a copy of the foregoing Answer to Motion for Sanctions has been served upon the persons listed below in accordance with the requirements of 52 Pa Code Sections 1.54 and 1.55 of the Commission's rules.

VIA ELECTRONIC MAIL AND US MAIL

Cynthia L. Randall, Esq.
Verizon Pennsylvania Inc.
1717 Arch Street, 10W
Philadelphia, PA 19103

Joseph M. Ruggiero, Esq.
Assistant General Counsel
Verizon Inc.
1515 N. Courthouse Rd., Ste. 500
Arlington, VA 22201

VIA HAND DELIVERY
Administrative Law Judge Wayne L. Weismandel
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

DATE: June 11, 2007

Michael A. Gruin, Esq.

EXHIBIT 1

Gruin, Michael A.

Subject: FW: Verizon requests for depositions

From: joseph.m.ruggiero@verizon.com [mailto:joseph.m.ruggiero@verizon.com]
Sent: Tuesday, April 24, 2007 2:21 PM
To: Hicks, Rick L.
Cc: cynthia.l.randall@verizon.com
Subject: Request Nos.

Rick- Here they are.

Pennsylvania Discovery

On our Friday, April 20 call, we agreed that, on Tuesday morning, April 24, the parties would exchange lists of the Pennsylvania requests that are most important for the depositions it plans to take, recognizing however that each party has the right to seek to recall a deponent based on discovery responses not timely received. Here is Verizon's list:

Verizon PA Set I Requests: 1, 2, 6, 7, 13-16, 22, 23, 28, 30, 31, 36

Verizon PA Set II Requests: 11-14, 21, 137-40, 143, 146, 155-57

We request your responses by Thursday, April 27, 2007. In view of the approaching depositions of Cavalier witnesses beginning three business days later, please also email a copy of your responses to both Austin Schlick and Scott Attaway at Kellogg Huber.

****

Joseph M. Ruggiero
Assistant General Counsel
Verizon
1515 N. Courthouse Rd., Ste. 500
Arlington, VA 22201
(P) 703.351.3824
(F) 703.351.3655

EXHIBIT 2

EXHIBIT 3

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

VERIZON PENNSYLVANIA INC.	:	
	:	
Complainant	:	
	:	**Docket No. C-20067132**
v.	:	
	:	
CAVALIER TELEPHONE MID-ATLANTIC, LLC	:	
	:	
Respondent	:	

ANSWERS OF CAVALIER TELEPHONE MID-ATLANTIC, LLC TO VERIZON PENNSYLVANIA INC.'S DATA REQUEST NO. 1

Pursuant to 52 Pa. Code §§ 5.342, Cavalier Telephone Mid-Atlantic, LLC ("Cavalier") hereby provides the following Answers to Verizon Pennsylvania Inc.'s Set I Data Requests in the above captioned proceeding.

REQUEST

1. Produce copies of all documents, e-mails, correspondence, contracts, or agreements relating to Cavalier's relationship with New York Access Billing LLC or other entities relating to Cavalier's production, distribution, use, or billing of EMI Records.

RESPONSE

Answered By: John J. Haraburda
Position: Manager of Revenue Assurance

Other than the interconnection agreement between the parties in this proceeding, Cavalier possesses no documents relating to Cavalier's production, distribution, use, or billing of EMI Records. As agreed upon by the parties, the interconnection agreement between the parties has been provided in proceedings at PA PUC Docket No. C-20055343

REQUEST

2. Produce copies of all documents, e-mails, correspondence, contracts, or agreements relating to Cavalier's relationship with New York Access Billing LLC or other entities relating to Cavalier's production, distribution, use, or billing of EMI Records.

RESPONSE

Answered By: John J. Haraburda
Position: Manager of Revenue Assurance

The NEW YORK ACCESS BILLING LLC contract referred to in this request ended in early 2002. To date, Cavalier has located a copy of the contract itself, but has been unable to locate any other, related documents. A copy of the New York Access Billing contract is attached to these responses.

REQUEST

3. Produce copies of all documents relating to Cavalier's discontinuation of using New York Access Billing LLC to provide EMI Records.

RESPONSE

Answered By: John J. Haraburda
Position: Manager of Revenue Assurance

None.

REQUEST

4. Produce copies of all documents, internal e-mails and other correspondence of Cavalier from April 1, 2003, to date, discussing or relating to Cavalier's collection, production, maintenance, retention, and distribution of records (including AMA, EMI, SS7, or other records) related to interLATA and intraLATA toll calls originated by Cavalier.

RESPONSE

Answered By: John J. Haraburda
Position: Manager of Revenue Assurance

None.

REQUEST

5. Produce copies of all contracts, agreements, or documents with third-parties relating to Cavalier's provisioning of EMI Records to Verizon, any billing agents, any IXC, or other LEC.

RESPONSE

Answered By: John J. Haraburda
Position: Manager of Revenue Assurance

None.

REQUEST

6. Produce copies of all documents, internal e-mails and other correspondence relating to whether Cavalier, specifically including any Cavalier affiliates, parents, or subsidiaries, as an IXC has paid any invoices from any ILEC for bills generated by the ILEC based on any other record source than switched access usage data for interLATA and intraLATA toll calls originated by any CLEC.

RESPONSE

Answered By: John J. Haraburda
Position: Manager of Revenue Assurance

None.

REQUEST

7. Produce copies of all documents, internal e-mails and other correspondence from April 1, 2003, to the present, that reflect or relate to the accuracy or completeness (or inaccuracy or incompleteness) of Cavalier's EMI Records, AMA records, SS7 records, or any other type of call records produced by Cavalier.

RESPONSE

Answered By: John J. Haraburda
Position: Manager of Revenue Assurance

None, with respect to EMI records. Cavalier has objected to the request with respect to the remaining records as overly broad and unduly burdensome, because all documents related to the accuracy or completeness of such records is so broadly worded that it could include extraordinarily large volumes of records, as well as records that Cavalier does not retain in the ordinary course of its business and that could not be retained by Cavalier without extensive and undue expense, effort, and burden.

REQUEST

8. Provide all documents that support Cavalier's contention that Verizon could nevertheless bill IXCs despite Cavalier's failure to provide EMI Records.

RESPONSE

Answered By: John J. Haraburda
Position: Manager of Revenue Assurance

Cavalier states that the Verizon tandem has all of the information necessary to not only bill the traffic coming from Cavalier routed through the Tandem and then to an IXC carrier, but all traffic from ALL carriers passing to the IXC carriers. Thus, instead of getting a percentage of billing information from a third party, Verizon has the capacity to generate records for a full 100% of the billable traffic. Consequently, Cavalier maintains that Verizon has suffered no impact as a result of Cavalier's non delivery of EMI to Verizon. All documents to support Cavalier's contentions are in the possession of Verizon. Cavalier has requested these documents in its Interrogatories and Requests for Production of Documents, Set I, in this matter.

REQUEST

9. Provide all bills and documents relating to bills issued by Cavalier to IXCs for originating access since April 2003.

RESPONSE

Answered By: John J. Haraburda
Position: Manager of Revenue Assurance

Cavalier bills carriers for both originating and terminating minutes on our invoices. Additionally Cavalier does not separate the billing based on the data source used to perform the billing. Thus, where alternative routing scenarios are available for Cavalier to by-pass the Verizon IXC tandem (as Verizon repeatedly suggested in the context of Cavalier's 2003 arbitration with Verizon), Cavalier would use this alternative pathway. However on the billing the minutes reflected would NOT reflect minutes passed directly to the IXC tandem.

Cavalier has objected to the production of bills issued by Cavalier on the grounds that it is vague, overly broad, and unduly burdensome. Upon review of these documents, Cavalier also concludes that the information contained therein is the confidential and proprietary information of other carriers.

Notwithstanding Cavalier's objections, Cavalier can confirm that it has and will continue to bill Originating Access to carriers for calls originated on the Cavalier network routed to an IXC.

REQUEST

10. Provide all documents that support each of Cavalier's defenses to Verizon's claims.

RESPONSE

Answered By: John J. Haraburda
Position: Manager of Revenue Assurance

See Affidavit of John Haraburda, enclosed herewith. See Intralata Telecommunications Service Settlement (Exhibit H to Attachment III to the interconnection agreement between the parties), enclosed herewith. See Cavalier Carrier Billing Process Description and Flow Charts (3) enclosed herewith.

REQUEST

11. Provide all documents that you claim support your response to each data request.

RESPONSE

Answered By: John J. Haraburda
Position: Manager of Revenue Assurance

See Affidavit of John Haraburda, enclosed herewith. See Intralata Telecommunications Service Settlement (Exhibit H to Attachment III to the interconnection agreement between the parties), enclosed herewith. See Cavalier Carrier Billing Process Description and Flow Charts (3) enclosed herewith.

REQUEST

12. Describe all methods that Cavalier uses to measure switched access traffic for interLATA and intraLATA toll calls originated by Cavalier.

RESPONSE

Answered By: John J. Haraburda
Position: Manager of Revenue Assurance

See Cavalier Carrier Billing Process Description and Flow Charts (3) enclosed herewith.

REQUEST

13. Describe in detail the general process flow for the collection and mediation of call records off Cavalier switches.

RESPONSE

Answered By: John J. Haraburda
Position: Manager of Revenue Assurance

See Cavalier Carrier Billing Process Description and Flow Charts (3) enclosed herewith.

REQUEST

14. For the time period from April 1, 2003, to the present, describe in detail the process used by Cavalier to create EMI or Meet-Point Billing records or files.

RESPONSE

Answered By: John J. Haraburda
Position: Manager of Revenue Assurance

None.

REQUEST

15. For Data Request No. 14, please describe how the switched access records are used by Cavalier.

RESPONSE

Answered By: John J. Haraburda
Position: Manager of Revenue Assurance

No such records or files are created, so no records are used in that connection.

REQUEST

16. For Data Request No. 14, please describe to whom the switched access records are sent outside of Cavalier.

RESPONSE

Answered By: John J. Haraburda
Position: Manager of Revenue Assurance

No such records or files are created, so no records are sent outside of Cavalier.

REQUEST

17. Identify, by name, title, and address, all Cavalier personnel, current and former, knowledgeable about Cavalier's methods of measuring switched access traffic for interLATA and intraLATA toll calls originated by Cavalier.

RESPONSE

Answered By: John J. Haraburda
Position: Manager of Revenue Assurance

John J. Haraburda
Manager of Revenue Assurance
Cavalier Telephone Mid-Atlantic
2134 West Laburnum Avenue, Richmond, Virginia 23227-4342.

Bret Cameron
Director of Network Finance
Cavalier Telephone Mid-Atlantic
18 Shea Way, Newark, Delaware 19713.

REQUEST

18. Identify, by name, title, and address, all Cavalier personnel, current and former, who have communicated with Verizon or New York Access Billing LLC with respect to EMI Records.

RESPONSE

Answered By: John J. Haraburda
Position: Manager of Revenue Assurance

John J. Haraburda
Manager of Revenue Assurance
Cavalier Telephone Mid-Atlantic
2134 West Laburnum Avenue, Richmond, Virginia 23227-4342.

Bret Cameron
Director of Network Finance
Cavalier Telephone Mid-Atlantic
18 Shea Way, Newark, Delaware 19713.

REQUEST

19. Since April 2003, state whether Cavalier has provided switched access records to Verizon or any other ILEC, IXC, or billing agent, specifically naming the type of records and the date(s) provided.

RESPONSE

Answered By: John J. Haraburda
Position: Manager of Revenue Assurance

To the best of my knowledge, Cavalier has not provided switched access records to any carrier.

REQUEST

20. State whether Cavalier has used switched access records for interLATA and intraLATA toll calls originated by Cavalier to bill any IXC.

RESPONSE

Answered By: John J. Haraburda
Position: Manager of Revenue Assurance

Yes.

REQUEST

21. If the answer to Data Request No. 20 is yes, provide a list that identifies the dollar amount billed, the specific IXCs billed, and the minutes of use billed by Cavalier to each IXC for each month since April 1, 2003.

RESPONSE

Answered By: John J. Haraburda
Position: Manager of Revenue Assurance

Cavalier has previously objected to this request on the grounds that it is vague, overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence in this proceeding. Additionally, Cavalier objected to this request on the grounds that it calls for the delivery of confidential and proprietary information of other carries concerning amounts billed which are not involved in the subject litigation. Notwithstanding the above objections, Cavalier states that its billing to carriers is inclusive of all billing from all sources from all routing alternatives and thus would not by definition equate to the specific traffic in question in this case which is traffic routed from Cavalier to the IXC tandem.

REQUEST

22. Identify and describe any audits, reports, or investigations performed by Cavalier pertaining to the generation of EMI Records since April 1, 2003.

RESPONSE

Answered By: John J. Haraburda
Position: Manager of Revenue Assurance

None.

REQUEST

23. Define the processes that Cavalier uses to generate call record detail off its switches when a call routes outbound from Cavalier passing through Verizon for delivery to Carrier B, whether Carrier B is a CLEC, an IXC, a wireless carrier, an ILEC, or any other type of carrier.

RESPONSE

Answered By: John J. Haraburda
Position: Manager of Revenue Assurance

See Cavalier Carrier Billing Process Description and Flow Charts (3) enclosed herewith. Additionally, Cavalier makes no differentiation between the generation of call records off the switch and specific carrier types. All calls routed to the IXC tandem, which are the calls in question, have data recorded off the switch in the same fashion.

REQUEST

24. Specify all AMA record Call Codes and Structure Codes produced defining the calling scenarios related to each Call Code/Structure Code.

RESPONSE

Answered By: John J. Haraburda
Position: Manager of Revenue Assurance

See Cavalier Carrier Billing Process Description and Flow Charts (3) enclosed herewith.

REQUEST

25. Specify what information is generally recorded in these records.

RESPONSE

Answered By: John J. Haraburda
Position: Manager of Revenue Assurance

See Cavalier Carrier Billing Process Description and Flow Charts (3) enclosed herewith.

REQUEST

26. Identify the relevant tariff sections that Cavalier used to rate and bill the traffic referenced in Verizon's Complaint.

RESPONSE

Answered By: John J. Haraburda
Position: Manager of Revenue Assurance

See tariffs previously provided (FCC and state specific) Non-tariffed, intercarrier rates are negotiated through interconnection agreements with specific carriers.

REQUEST

27. For the month of October 2006 (10/1 – 10/31), please detail per office the total volume of traffic recorded off the Cavalier switches that passes through Verizon.

RESPONSE

Answered By: John J. Haraburda
Position: Manager of Revenue Assurance

Cavalier has previously objected to the Request on the grounds that it is vague and not reasonably calculated to lead to the discovery of admissible evidence in this proceeding. Notwithstanding the above objections, Cavalier states that the relevant traffic is NOT dependent upon jurisdiction of the traffic but SOLELY whether the calls pass through the Verizon IXC Tandem. Additionally, Cavalier does not maintain its data in the fashion requested and any attempt at further response would require an extensive traffic study.

REQUEST

28. Provide detail, for the same period (10/1 – 10/31), the volume of call records billed to third parties for the cost elements claimed in Verizon's Complaint for the same calling scenarios detailed above.

RESPONSE

Answered By: John J. Haraburda
Position: Manager of Revenue Assurance

Cavalier has previously objected to this Request as being vague, overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence in this proceeding. Notwithstanding the above objections, Cavalier states that Cavalier bills carriers for both originating and terminating minutes of use. Additionally, Cavalier does not separate the billing based on the data source used to perform the billing. Thus where alternative routing scenarios are available for Cavalier to by-pass the Verizon IXC tandem, per Verizon's own instructions in the FCC arbitration, Cavalier would use this alternative pathway. However on the billing the minutes reflected would NOT reflect minutes passed directly to the IXC tandem. Additionally, the information requested in this Request is the confidential and proprietary information of other carriers.

REQUEST

29. Describe how Cavalier contends that Verizon can produce an industry-standard EMI Record for interLATA and intraLATA toll calls originated by Cavalier.

RESPONSE

Answered By: John J. Haraburda
Position: Manager of Revenue Assurance

Cavalier does not contend that Verizon "can produce an industry-standard EMI Record for interLATA and intraLATA toll calls originated by Cavalier." Cavalier contends that EMI is not required for Verizon to bill these calls.

REQUEST

30. Describe how Cavalier contents that Verizon may bill IXCs for calls originated by Cavalier based on anything other than EMI Records from Cavalier.

RESPONSE

Answered By: John J. Haraburda
Position: Manager of Revenue Assurance

Cavalier's assertion is that the Verizon tandem has all the information necessary to not only bill the traffic coming from Cavalier routed through the Tandem and then to an IXC carrier but all traffic from ALL carriers passing to the IXC carriers. Thus, instead of getting a percentage of billing information from a third party, Verizon has the capacity to generate records for a full 100% of the billable traffic. Thus, Verizon has suffered no impact as a result of Cavalier's non delivery of EMI to Verizon.

REQUEST

31. For each calendar quarter, beginning with the second quarter of 2003, state whether Cavalier routed exchange access traffic to any Verizon access tandem.

RESPONSE

Answered By: John J. Haraburda
Position: Manager of Revenue Assurance

Yes, for all quarters.

REQUEST

32. For each calendar quarter for which the response to Data Request No. 31 is yes, provide the number of exchange access minutes that Cavalier routed to Verizon access tandem(s).

RESPONSE

Answered By: John J. Haraburda
Position: Manager of Revenue Assurance

Cavalier does not maintain or store its information in the manner requested, and retrieving the requested data would require an extensive and time consuming traffic study. Moreover, Verizon already has the responsive information in its possession, because 100% of this traffic would have been sent to Verizon, routed to the appropriate carrier, and billed to the appropriate carrier by Verizon.

REQUEST

33. For each calendar quarter for which the response to Data Request No. 31 is yes, state whether Cavalier has provided to either Verizon, or Verizon's billing agent (New York Access Billing LLC) meet point billing (MPB) EMI Records for the exchange access traffic that Cavalier routed to Verizon access tandem(s).

RESPONSE

Answered By: John J. Haraburda
Position: Manager of Revenue Assurance

No.

REQUEST

34. For the time period from April 1, 2003, to the present, describe in detail any controls that are used by Cavalier (or any other person or business entity) in the creation of Cavalier's EMI Records, files or bills.

RESPONSE

Answered By: John J. Haraburda
Position: Manager of Revenue Assurance

None.

REQUEST

35. For the time period from April 1, 2003, to the present, produce all control reports or other documents that reflect or relate to any efforts to ensure the accuracy or completeness of Cavalier's EMI Records, files or bills.

RESPONSE

Answered By: John J. Haraburda
Position: Manager of Revenue Assurance

None.

REQUEST

36. Describe in detail the rules and processes that Cavalier uses to determine the population of the following information or fields in EMI standard record type 1150XX. From Number, To Number, CABS Billing RAO, From RAO, BSA/FGA, Settlement Code, Originating LRN, Originating OCN, Terminating LRN, Terminating OCN, Charge Number, and Charged or Collected Amount.

RESPONSE

Answered By: John J. Haraburda
Position: Manager of Revenue Assurance

None.

REQUEST

37. For the time period from April 1, 2003, to the present, produce all control reports or other documents that reflect or relate to any efforts to ensure the accuracy or completeness of Cavalier's EMI Records, files or bills.

RESPONSE

Answered By: John J. Haraburda
Position: Manager of Revenue Assurance

None.

REQUEST

38. Describe in detail the rules and processes that Cavalier uses to determine the population of the following information or fields in EMI standard record type 1150XX. From Number, To Number, CABS Billing RAO, From RAO, BSA/FGA, Settlement Code, Originating LRN, Originating OCN, Terminating LRN, Terminating OCN, Charge Number, and Charged or Collected Amount.

RESPONSE

Answered By: John J. Haraburda
Position: Manager of Revenue Assurance

None.

REQUEST

39. For each of Cavalier's defenses to Verizon's claims, describe in detail all facts, documents, and other information that support Cavalier's defense.

RESPONSE

Answered By: John J. Haraburda
Position: Manager of Revenue Assurance

See facts and assertions set forth in Cavalier's Answer to Verizon's Complaint, and Cavalier's Answer to Summary Judgment Motion and Cross Motion for Summary Judgment, and all Exhibits thereto. See the interconnection agreement between the parties has been provided in proceedings at PA PUC Docket No. C-20055343. See Affidavit of John Haraburda, enclosed herewith. See Intralata Telecommunications Service Settlement (Exhibit H to Attachment III to the interconnection agreement between the parties), enclosed herewith.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing document, in accordance with the requirements of 52 Pa. Code § 1.54 et seq. (relating to service by a participant).

VIA FIRST CLASS MAIL

Cynthia L. Randall
Assistant General Counsel
Verizon Communications
1717 Arch Street, 10W
Philadelphia, PA 19103

Date: May 17, 2007

Renardo L. Hicks

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Verizon Pennsylvania, Inc. Complainant	:	Docket No. C-20067132
v.	:	
Cavalier Telephone Mid-Atlantic, LLC Respondent	:	

AFFIDAVIT OF JOHN HARABURDA

1. My name is John J. Haraburda. I am over the age of 18 and I am currently Manager of Revenue Assurance for Cavalier Telephone, LLC ("Cavalier"). I have held that position since September of 2002. In this position, I have been responsible for Carrier Access and Reciprocal Compensation Billing, Meet Point Trunk Billing, Revenue Assurance and Customer Fraud detection and prevention.

2. As Manager of Revenue Assurance, I have specific knowledge of Cavalier's and Verizon's respective obligations with respect to Meet Point Billing arrangements under the Interconnection Agreement in force between the parties.

3. Under the Interconnection Agreement between the parties, each party is obligated to provide the other party with information sufficient to allow that party to bill IXCs for traffic delivered over its networks.

4. In accordance with the Interconnection Agreement, the normal course of business between Verizon and Cavalier has been to engage in practical business discussions to address concerns related to billing and exchanges of information necessary for billing of third-party carriers.

000007

EXHIBIT C

5. Upon information and belief, EMI records are not the sole source of billing information available to Verizon to bill IXCs for traffic delivered over its network

6. Upon information and belief, to be confirmed upon receipt of Verizon's responses to Discovery Requests propounded in this matter, Verizon requested EMI records from Cavalier once in 2002. For the next four years, Verizon failed to raise the EMI delivery issue, even despite the parties' settlement discussions in 2003 and subsequent discussions in 2004 of related issues. This leads me to believe that Verizon is in fact fully capable of billing IXCs for traffic delivered over Verizon's network based on other sources of information besides EMI records. Four years later, in 2006, Verizon made a second request for these records, which has resulted in normal business process discussions that remain ongoing to this day.

7. Upon information and belief, to be confirmed upon receipt of Verizon's responses to Discovery Requests propounded in this matter, Verizon maintains its own records to bill IXCs for traffic delivered over its own network.

8. Upon information and belief, to be confirmed upon receipt of Verizon's responses to Discovery Requests propounded in this matter, Verizon has not been damaged on account of not receiving EMI records from Cavalier because Verizon's own records allow it to bill IXCs for traffic delivered over the Verizon network

9. Upon information and belief, to be confirmed upon receipt of Verizon's responses to Discovery Requests propounded in this matter, most, if not all, CLEC's with whom Verizon interconnects do not provide *any* EMI records to Verizon, which further leads me to believe that Verizon is able to bill IXCs for traffic delivered over Verizon's network based on sources of information other than EMI records.

10. In May, 2003, Verizon and Cavalier entered into a global settlement agreement to resolve all existing disputes arising under their Interconnection Agreement, and under the terms of the May, 2003 settlement agreement, Verizon is barred from seeking any compensation from Cavalier for all periods up through and including March 31, 2003.

John J. Haraburda

Sworn to and subscribed before me this 20th day of February, 2007.

Notary Public

My Commission expires: 9-30-2009

EXHIBIT H

INTRALATA TELECOMMUNICATIONS SERVICES SETTLEMENT

This IntraLATA Telecommunications Services Settlement Agreement is made this __ of _____, 1996, by and between Bell Atlantic - Pennsylvania, Inc. ("BA"), a Pennsylvania corporation with offices at _____, and _____ ("CLEC"), a _____ corporation with offices at _____.

SECTION I

SCOPE

This Agreement sets forth the terms and conditions for the following:

(a) administering and processing messages in the intraLATA Toll Originating Responsibility Plan (ITORP); and

(b) the settlement of compensation for the following telecommunications traffic within a BA LATA:

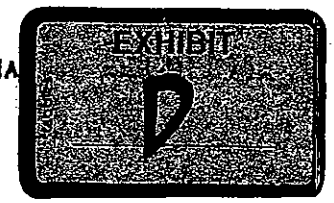
(1) intrastate and interstate intraLATA traffic terminated to CLEC and originated by an Independent Telephone Company or wireless carriers that transits the facilities of BA within a BA LATA, including Message Telecommunications Service and Local Exchange Service (the "ITORP Transit Service Traffic");

(2) intrastate and interstate intraLATA Message Telecommunications Service and Local Exchange Service traffic which originates from a Certified Local Exchange Carrier or CLEC, transits BA's network and terminates to CLEC, or a wireless carrier or an Exchange Carrier other than BA, which traffic is subject to a Meet-Point Billing arrangement (the "Meet-Point Transit Service Traffic");

(3) intraLATA 800/888 Service Traffic; and

(4) intraLATA Alternately Billed Calls billed to a line-based telephone number within the state where the call is originated.

By way of clarification, this Agreement does not cover the following: (x) traffic that does not use BA facilities (except intraLATA 800/888 Service Traffic); (y) interLATA traffic; and (z)



any statewide services (whether interLATA or intraLATA) provided entirely by an Interexchange Carrier such as statewide WATS.

SECTION II

DEFINITIONS

For purposes of this Agreement, the terms set forth below shall have the following meaning:

A. 800/888 Number Database shall mean the call management service database that provides POTS telephone number translation or routing information or both for a given 800/888 telephone number.

B. 800/888 Number Query shall mean routing information obtained from an 800/888 Number Database for originating 800/888 calls.

C. 800/888 Service Traffic means a toll free call originating with the Originating Company and billed to the Terminating Company's end user. 800/888 service MOUs are recorded by the Originating Company and provided to the Terminating Company so that it can bill its end user(s).

D. Access Tandem shall mean a switching entity that is used to connect and switch trunk circuits between and among End Offices and between and among End Office switches and carriers' aggregation points, points of termination, or points of presence, which entity has billing and recording capabilities that are used to provide switched Exchange Access services.

E. Alternately Billed Calls shall mean all intraLATA land-line Collect Calls, Calling Card Calls and Third-Number Calls that originate and terminate in the Commonwealth of Pennsylvania and are billed to a line-based number within the jurisdiction of the Commonwealth of Pennsylvania serviced by the Billing Company. Alternately Billed Calls are identified in ITORP reports as "Received Collect/Sent Collect Calls".

F. Billing Company shall mean the Local Exchange Carrier that provides the local telephone exchange service for the number to which an Alternately Billed Call is to be billed.

G. Calling Card Call shall mean a call billed to a pre-assigned end user line-based billing number, including calls dialed or serviced by an operator system.

H. Carrier Common Line Facilities means the facilities from the end user's premises to the End Office used to originate or terminate Transit Service Traffic and 800/888 Service Traffic. Such carrier common line facilities are as specified in each party's Exchange Access Tariff.

I. Category 01 shall mean the EMR/billing record for usage charges applicable to the terminating 800/888 number service subscriber.

J. Category 08 shall mean the EMR/copy record containing the information necessary for CLEC to bill/settle intraLATA terminating charges with other carriers.

K. Category 11 shall mean the EMR/access record containing information necessary for CLEC to bill/settle interexchange access charges.

L. CCS/SS7 shall mean the Common Channel Signaling/Signaling System 7, which refers to the packet-switched communication, out-of-band signaling architecture that allows signaling and voice to be carried on separate facilities, and thus is a signaling network that is common to many voice channels. There are two modes of operation defined for CCS/SS7: database query mode, and trunk signaling mode.

M. Centralized Message Distribution System (CMDS) shall mean the message processing system which handles the distribution of Message Records from the Earning Company to the Billing Company.

N. Competitive Local Exchange Carrier (CLEC) means a carrier certified by the Pennsylvania Public Utility Commission to provide Local Exchange or Exchange Access services within the BA operating territory in that state.

O. Clearing House shall mean the monthly function performed by BA for a fee to collect funds owed by one Exchange Carrier or wireless carrier and the distribution of those funds to other Exchange Carriers or wireless carriers. These Clearing House funds include but are not limited to amounts owed for terminating traffic and Alternately Billed Calls. The Clearing House function will include funds due from and payable to each Independent Telephone Company, Certified Local Exchange Carrier and wireless carrier that contracts with BA to provide the Clearing House function and will not include any funds due from or payable to BA.

P. Collect Call shall mean a non-sent paid call that is billed to the number receiving the call, including calls dialed or serviced by an operator system.

Q. Discounted Toll Services means services in which the originating end user is charged a rate less than would normally be assessed for calls placed to similar points outside the end user's local calling area.

R. Earning Company shall mean the Local Exchange Carrier that provides local telephone exchange service for the number from which an Alternately Billed Call originates.

S. End Office means the end office switching and end user line termination facilities used to originate or terminate switched intraLATA telecommunications services traffic.

T. Exchange means a geographic area established for the furnishing of local telephone service under a local tariff. It usually embraces a city, town or village and its environs. It consists of one or more wire centers together with the associated facilities used in furnishing communications service within the area.

U. Exchange Access means the facilities and services used for the purpose of originating or terminating interexchange telecommunications in accordance with the schedule of charges, regulations and conditions specified in lawfully established Exchange Access Tariffs.

V. Exchange Access Tariffs means the tariffs lawfully established with the Federal Communications Commission or the by an Exchange Carrier for the provision of Exchange Access facilities and services.

W. Exchange Carrier shall mean a carrier licensed to provide telecommunications services between points located in the same Exchange area.

X. Exchange Message Record (EMR) shall mean the standard used for exchange of telecommunications message information among Local Exchange Carriers for billable, non-billable, sample, settlement and study data. EMR format is described in BR-010-200-010 CRIS Exchange Message Record, a Bell Communications Research, Inc. document that defines industry standards for Exchange Message Records, which is hereby incorporated by reference.

Y. ITORP Transit Service Traffic shall have the meaning set forth in Section I above titled "Scope".

Z. Independent Telephone Company shall mean any entity other than BA which, with respect to its operations within the Commonwealth of Pennsylvania, is an incumbent Local Exchange Carrier.

AA. Inter-Company Net Billing Statement shall mean the separate monthly financial reports issued by BA to the Exchange Carriers for settlement of amounts owed.

BB. IntraLATA Toll Originating Responsibility Plan (ITORP) shall mean the information system owned and administered by BA for calculating charges between BA and Local Exchange Carriers for termination of intraLATA calls.

CC. Interexchange Carrier (IXC) means a carrier that provides, directly or indirectly, interLATA or intraLATA telephone toll services.

DD. Local Access and Transport Area (LATA) means a contiguous geographic area: (1) established before the date of enactment of the Telecommunications Act of 1996 by BA such that no Exchange area includes points within more than one metropolitan statistical area, consolidated metropolitan statistical area, or state, except as expressly permitted under the AT&T Consent Decree; or (2) established or modified by BA after such date of enactment and approved by the Federal Communications Commission.

EE. Local Exchange Carrier (LEC) means any person that is engaged in the provision of Local Exchange Service or Exchange Access. Such term does not include a person insofar as such person is engaged in the provision of a commercial mobile service under Section 332 (c) of the Telecommunications Act of 1996, except to the extent that the Federal Communications Commission finds that such service should be included in the definition of such term.

FF. Local Exchange Service means telecommunications services provided between points located in the same LATA.

GG. Meet -Point Billing (MPB) means an arrangement whereby two or more LECs jointly provide to a third party the transport element of a switched access Local Exchange Service to one of the LECs' End Office switches, with each LEC receiving an appropriate share of the transport element revenues as defined by their effective Exchange Access tariffs.

HH. Meet-Point Transit Service Traffic shall have the meaning set forth in Section 1, "Scope".

II. Message Records shall mean the message billing record in Exchange Message Record format.

JJ. Message Telecommunications Service (MTS) means message toll telephone communications, including Discounted Toll Services, between end users in different Exchange areas, but within the same LATA, provided in accordance with the schedules of charges, regulations and conditions specified in lawfully applicable tariffs.

KK. Minutes of Use (MOU) means the elapsed time in minutes used in the recording of Transit Service Traffic and 800/888 Service Traffic.

LL. Multiple Bill/Single Tariff means the MPB method whereby each LEC prepares and renders its own Meet Point Bill in accordance with its own tariff(s) for the portion of the jointly-provided Exchange Access service which the LEC provides.

MM. Multiple Exchange Carrier Access Billing (MECAB) means the document prepared by the Billing Committee of the Ordering and Billing Forum, which

functions under the auspices of the Carrier Liaison Committee of the Alliance for Telecommunications Industry Solutions, and published by Bellcore as Special Report SR-BDS-000983, which document contains the recommended guidelines for the billing of an Exchange Access service provided by two or more LECs, or by one LEC in two or more states within a single LATA, and is incorporated herein by reference.

NN. Originating Company means the company which originates intraLATA MTS or Local Exchange Service on its system. (For compensation purposes, the Originating Company shall be considered the Terminating Company for 800/888 Service Traffic.)

OO. Terminating Company means the company which terminates intraLATA MTS or Local Exchange Service on its system where the charges for such services are collected by the Originating (or Billing) Company. (For compensation purposes, the Terminating Company shall be considered the Originating Company for 800/888 Service Traffic.)

PP. Third-Number Call shall mean a call billed to a subscriber's line-based billing number which is not the number to which the call either terminates or originates.

QQ. Transit Traffic shall refer to both ITORP Transit Service Traffic and Meet-Point Transit Service Traffic.

RR. Transiting Company shall mean a Local Exchange Carrier which transports intraLATA telecommunications traffic on its system between an Originating Company and a Terminating Company.

SS. Transport Facilities means the facilities from the End Office to an interconnection point used to originate or terminate switched intraLATA telecommunication services traffic.

SECTION III

SETTLEMENT OF TRANSIT SERVICES

(a) ITORP Transit Service Traffic.

(1) Call Routing and Recording; Billing Percentages. BA will route ITORP Transit Service Traffic over the combined local and toll trunk groups between BA and CLEC for those Independent Telephone Companies, Certified Local Exchange Carriers and wireless carriers who have either executed an IntraLATA Telecommunications Services Settlement Agreement with BA, or another agreement with BA setting forth the terms under which Transit Traffic will be exchanged. BA and CLEC agree to designate the points of interconnection for the purpose of

terminating ITORP Transit Service Traffic which originates from an Independent Telephone Company or wireless carrier and terminates to CLEC. Both parties further agree to develop and mutually agree to billing percentages applicable to ITORP Transit Service Traffic, which billing percentages shall be calculated in accordance with ITORP guidelines.

(2) Exchange of Billing Data. The Originating Company will provide to BA all billing data relating to ITORP Transit Service Traffic for processing in ITORP within thirty(30) days from the date the usage occurs (to the extent usage occurs on any given day) for traffic originating from an Independent Telephone Company or wireless carrier, which traffic transits BA's facilities and terminates to CLEC.

(3) Billing. BA will, on behalf of CLEC, bill Exchange Carriers and wireless carriers for intraLATA ITORP Transit Service Traffic, and collect compensation due CLEC based on CLEC's established and legally-approved tariffed or negotiated rates utilizing ITORP. The charges set forth in Attachment A, attached hereto and incorporated herein by reference, shall apply to the billing and collection services provided by BA to CLEC hereunder. CLEC will record the ITORP Transit Service Traffic usage at its switch, and shall bill BA for this traffic in accordance with the rates set forth in the Interconnection Agreement under Section 251 and 252 of the Telecommunications Act of 1996, dated as of June 13, 1997, by and between BA and CLEC.

(b) Meet-Point Transit Service Traffic.

(1) Call Routing and Recording; Billing Percentages. BA and CLEC will route their respective Meet-Point Transit Service Traffic over the combined local and toll trunk groups between them. BA and CLEC agree to designate the points of interconnection for the purpose of terminating Meet-Point Transit Service Traffic which originates from a CLEC and terminates to CLEC, or originates from CLEC and terminates to a CLEC, Independent Telephone Company, or a wireless carrier. Both parties further agree to develop and file mutually agreed to billing percentages applicable to Meet-Point Transit Service Traffic in the National Exchange Carrier Association F.C.C. Tariff No. 4, which billing percentages shall be calculated in accordance with MECAB guidelines.

(i) End Offices Subtending BA Access Tandem. Meet-Point Transit Service Traffic will be routed over the local and toll interconnection facilities used to terminate similar traffic directly between BA and CLEC when the Originating and Terminating Company's End Office switches subtend BA's Access Tandem. BA will record this traffic at the BA Access Tandem, and forward the terminating call records to the Terminating Company for purposes of Meet-Point Billing.

(ii) End Offices That Do Not Subtend a BA Access Tandem. When the Originating and/or the Terminating Company's End Office switches do not subtend BA's Access Tandem, the Meet-Point Transit Service Traffic must be routed over interconnection facilities other than those used to terminate intraLATA MTS or Local Exchange Service to BA's end users The Terminating

Company will record this traffic at its Access Tandem and forward the terminating call records to BA for Meet-Point Billing purposes.

(iii) Special Access. Upon request, any Meet-Point Service Transit Traffic may be routed over special access interconnection facilities between CLEC, on the one hand, and a CLEC, an Independent Telephone Company, or a wireless carrier, on the other.

(2) Exchange of Billing Data. All billing data exchanged hereunder will be exchanged on magnetic tape or via electronic data transfer, to be delivered at the addresses set forth below, using the Electronic Message Record format. BA will provide to CLEC the switched-access detail usage data (category 1101XX records) on magnetic tape within thirty (30) days from the date the usage occurs (to the extent usage occurs on any given day) for traffic originating from a CLEC, transiting BA's facilities and terminating to CLEC, and CLEC will provide to BA the switched access summary usage data (category 1150XX records) on a magnetic tape on a monthly basis within thirty (30) days of receipt from BA of the switched access detail usage data referenced above.

(3) Billing. BA and CLEC will submit to CLECs separate bills under their respective tariffs for their portion of jointly-provided Meet-Point Transit Service Traffic. With respect to Meet-Point Transit Service Traffic, BA and CLEC will exchange billing data and render bills under Multiple Bill/Single Tariff arrangements in accordance with the applicable terms and conditions set forth in MECAB.

(4) Addresses. Magnetic tapes to be sent hereunder to CLEC will be sent to the following address (which address CLEC may change upon prior written notice to BA):

_____
_____
_____
_____

Magnetic tapes to be sent hereunder to BA will be sent to the following address(es), as appropriate (which address(es) BA may change upon prior written notice to CLEC):

_____
_____
_____
_____

SECTION IV

800/888 SERVICE

800/888 Service Traffic will be exchanged among BA, CLEC, Independent Telephone Companies, CLECs and wireless carriers via CCS/SS7 trunks, and all will deliver/route these calls as appropriate and provide EMRs to the Terminating Company. These EMRs will, per industry standards, include the following: Category 01 (800/888 number subscriber billing), Category 08 (copy record/local exchange charges), and Category 11 (interexchange carriers access records).

(a) Delivery of Translated 800/888 Number Queries and calls over CCS/SS7 links and trunks. BA and CLEC will launch their own 800/888 Number Query for 800/888 Service Traffic originated in their networks, and route this traffic to each other, as appropriate, utilizing existing local and toll interconnection facilities.

(b) Exchange of Records; Compensation. All 800/888 Service Traffic hereunder shall be subject to the appropriate access charges, as set forth in the applicable tariffs. In addition, for jointly provided intraLATA 800/888 Service Traffic between two Local Exchange Carriers, the Originating Company is responsible for billing its tariffed 800/888 Number Query charge to the Terminating Company. CLEC, when acting as an Originating Company, must submit to BA, via magnetic tape(s) in EMR format, (i) the information necessary to bill/settle intraLATA charges (EMR Category 110125), and (ii) the usage charges applicable to the terminating 800/888-number service subscriber (EMR Category 010125).

(c) Settlement. EMR records submitted by CLEC hereunder acting as an Originating Company, as contemplated in Paragraph (b) above, will be processed in accordance with ITORP. For purposes of calculating the access charges due Local Exchange Carriers with respect to 800/888 Service Traffic, the Originating Company shall be deemed the Terminating Company. Access charges payable hereunder shall be calculated in accordance with Section VI of this Agreement, as applicable.

(d) Payment of Amounts Outstanding. Upon receipt of the Inter-Company Net Billing Statement from BA, CLEC shall, within thirty (30) days of invoice, remit to BA full payment of amounts owed under the Inter-Company Net Billing Statement.

SECTION V

ALTERNATELY BILLED CALLS

(a) Responsibilities of the Billing Company. The Billing Company agrees to provide the Earning Company with billing services, as specified below, with respect to Alternately Billed Calls.

(1) Billing. Upon receipt of the appropriate Message Record from CMDS, the Billing Company shall include this record in the bill to be issued to the end user responsible for payment. The Earning Company shall also submit copies of these Message Records to BA, at least once a month, in order to determine monthly settlement amounts for both the Billing Company and the Earning Company which will be reflected in the Inter-Company Net Billing Statement. These amounts will reflect any and all applicable charges due the Billing Company for performing billing services hereunder. In addition, as applicable, the Inter-Company Net Billing Statement will reflect any amounts owed by CLEC to BA for administering and processing ITORP.

(2) Payment of Amounts Outstanding. Upon receipt of the Inter-Company Net Billing Statement from BA, CLEC shall, within thirty (30) days of invoice, remit to BA full payment of amounts owed under the Inter-Company Net Billing Statement.

(b) Responsibilities of the Earning Company. In connection with Alternately Billed Calls, the Earning Company shall provide Message Records to the Billing Company on a daily basis to the extent that any usage has been recorded. These Message Records will be delivered by the Earning Company to the Billing Company via the CMDS system, unless otherwise agreed to by the parties hereto.

(c) Fees for Settlement of Alternately Billed Calls. The billing services provided by the Billing Company to the Earning Company with respect to Alternately Billed Calls shall be subject to the applicable charges set forth in Attachment A, which charges will be reflected in the Inter-Company Net Billing Statement. These charges may be revised upon mutual written agreement of the parties hereto.

SECTION VI

CALCULATION OF COMPENSATION

BA and CLEC agree to compensate each other with respect to Transit Services Traffic and 800/888 Service Traffic in accordance with the terms established below, and the rate elements set forth in Attachments A and B, attached hereto and incorporated herein by reference.

(a) Compensation due to the Terminating/Transiting Company. Compensation due to the Terminating Company/Transiting Company will be determined separately for each month as follows:

(1) For Carrier Common Line facilities provided by the Terminating Company, an amount calculated as specified for Carrier Common Line Facilities in the Terminating Company's Exchange Access Tariff. Compensation will be determined by multiplying a) the Terminating Company's Carrier Common Line rate, times b) the MOU.

(2) For End Office facilities provided by the Terminating Company, an amount calculated as specified for End Office facilities in the Terminating Company's Exchange Access Tariff. Compensation will be determined by multiplying a) the Terminating Company's appropriate Exchange Access End Office rate elements, times b) the MOU.

(3) For Transport facilities, where these facilities are provided by the Terminating Company, or a Transiting and Terminating Company, an amount calculated in accordance with the following steps:

(i) Determine the Terminating Company's airline miles from the End Office which serves the Terminating Company's end user to the Terminating Company's Access Tandem switching facility and/or to the interconnection point with the Transiting Company(ies).

(ii) Determine the Transiting Company's airlines miles from the interconnection point with the Terminating Company to the Transiting Company(ies) Access Tandem switching facility and/or to the interconnection point with the Originating Company.

(iii) Determine the sum of the total airline miles by adding (i) and (ii) above.

(iv) Divide the Terminating Company's airline miles determined in (i) preceding by the total airline miles determined in (iii) preceding, to determine the ratio of local transport miles provided by the Terminating Company.

(v) Divide the Transiting Company's airline miles determined in (ii) preceding by the total airline miles determined in (iii) preceding, to determine the ratio of local transport miles provided by the Transiting Company.

(vi) Identify the rates set forth in the Exchange Access Tariff for either the Terminating Company or Transiting Companies, or both, as appropriate, which rates are applicable to Transport Facilities.

(vii) Multiply the ratio determined in (iv) preceding, times the rate calculated in (vi) preceding, times the MOU, and add the amount set forth in (ix) below to determine the amount due the Terminating Company.

(viii) Multiply the ratio determined in (v) preceding, times the rate calculated in (vi) preceding, times the MOU, and add the amount set forth in (ix) below to determine the amount due the Transiting Company.

(ix) To the extent the Exchange Access Tariffs of the Terminating or Transiting Company, or both, provide for the payment of a fixed transport

charge to be assessed with respect to a terminating location (End Office or toll switch), multiply this charge times the chargeable MOU.

(4) For 800/888 Number Query facilities, provided by the Originating Company, an amount calculated as specified for query facilities in the Originating Company's Exchange Access Tariff. Compensation will be determined by multiplying a) the Originating Company's query rate, times b) the number of queries.

(5) For Local Call Termination facilities, provided by the Terminating Company, an amount calculated as specified for local call termination facilities in the Terminating Company's applicable Tariff or Agreement. Compensation will be determined by multiplying a) the Terminating Company's local call termination rate, times b) the MOU.

SECTION VII

ITORP ADMINISTRATION AND RESPONSIBILITIES

(a) Responsibilities of BA. BA shall:

1. Operate and maintain the ITORP system.

2. Provide the requirements and standards for ITORP records and tapes.

3. Inform CLEC of any proposed change in tape creation or distribution process at least sixty (60) days prior to the actual implementation of the change.

4. Develop and implement all system enhancements required to maintain the integrity of BA's ITORP system.

5. Process ITORP tapes received from CLEC, or its agent, during the next available billing cycle.

6. Review and analyze daily pre-edit reports to determine if a tape is acceptable for ITORP processing; provided, however, that CLEC is not absolved, as the Originating Company, from its responsibility to conform to ITORP input requirements.

7. Communicate with CLEC, or its agent, to resolve the problems with tapes which are identified as being unacceptable for ITORP processing.

8. Create and/or maintain all ITORP tables.

9. Include the monthly compensation due to and from CLEC as identified by ITORP on the Inter-Company Net Billing Statement. The compensation includes 800/888 Service Traffic and Alternately Billed Services traffic.

10. If requested by CLEC to perform the Clearing House function; settle with all local Exchange Carriers, via the Inter-Company Net Billing Statement, for ITORP Transit Service Traffic, 800/888 Service Traffic and Alternately Billed Calls originating from and/or terminating to CLEC.

11. Distribute monthly ITORP reports.

(b) Responsibilities of CLEC. CLEC shall:

1. Compensate BA for the administration and processing of ITORP as specified in Attachment A.

2. Notify BA Exchange Carrier Services staff in writing of any changes in its rates affecting ITORP tables, as specified in Attachment A, thirty (30) days prior to the effective date of any such changes.

3. Notify BA Exchange Carrier Services staff in writing of any network changes, such as changes in traffic routing, sixty (60) days prior to the implementation of the change in the network.

4. Conform to BA's ITORP record requirements and standards.

5. CLEC or its designated agent will forward the Exchange Message Records to BA, in a timely manner for processing.

6. Inform the BA Exchange Carrier Services staff in writing of any proposed changes in the Exchange Message Record creation or distribution process at least sixty (60) days prior to the actual implementation of the change.

7. Reimburse BA for compensating other local Exchange Carriers on behalf of CLEC, as reflected in the Inter-Company Net Billing Statement.

(c) Fees. Compensation for the administration and processing of ITORP will be due BA on a monthly basis, based on the number of messages processed in ITORP for CLEC. The processing and administrative fees are set forth in Attachment A. These fees may be revised by BA, at its discretion and upon notice to CLEC, based on periodic studies conducted by BA, and CLEC hereby agrees to be bound by such revised rates. A minimum monthly processing fee, as specified in Attachment A, will be assessed when CLEC's monthly ITORP processing charges are below the stated minimum monthly charge.

SECTION VIII

LIABILITIES

In the event of an error on the part of BA in calculating or settling any compensation amounts hereunder, CLEC's sole remedy and BA's only obligation shall be to re-calculate the compensation amount, and to the extent any amounts are owed to or owed by CLEC, such amounts will be reflected as an adjustment in the next Inter-Company Net Billing Statement. In the event any records are lost or destroyed, BA and CLEC will jointly estimate the charges due to either party hereunder as follows:

(1) Total the compensation paid for the most recent six (6) months period preceding the month covered by the lost or destroyed tapes with respect to the following types of traffic (but only to the extent records for that particular type of traffic are lost of destroyed): ITORP Transit Service Traffic, Meet-Point Transit Service Traffic, 800/888 Service Traffic or Alternately Billed Calls.

(2) Divide the total determined in (1) preceding, by 180 days.

(3) Multiply the compensation per day determined in (2) preceding, by the number of days covered by the lost or destroyed tapes. The calculated amount will be included as an adjustment for lost or destroyed tapes in the next Inter-Company Net Bill Statement.

BA shall have no liability whatsoever, including any related access charges, with respect to any lost, damaged or destroyed records submitted hereunder by CLEC. In addition and to the extent applicable, BA's liability under this Agreement and/or in connection with the settlement, payment and/or calculation of any amounts due hereunder shall be limited as set forth in the applicable tariffs. BA shall have no obligation or liability with respect to any billing, settlement or calculation-of-compensation errors or omissions, including without limitation the duty to re-calculate any compensation amounts reflected in the Inter-Company Net Billing Statement, if such error or omission occurred more than two (2) years prior to the time in which it is brought to BA's attention in writing. Without limiting the foregoing, in no event shall either party hereto be liable for consequential, incidental, special or indirect damages (including without limitation loss of profit or business) hereunder whether such damages are based in tort (including, without limitation, under any theory of negligence), contract breach or otherwise, and even if said party knew or should have known of the possibility thereof.

SECTION IX

RELATIONSHIP OF THE PARTIES

Nothing herein contained will be deemed to constitute a partnership or agency relationship between the parties. Each party agrees that it will perform its obligations hereunder as an independent contractor and not as the agent, employee or servant of the other party. Neither party nor any personnel furnished by such party will be deemed employees or agents of the other party or entitled to any benefits available under any plans for such other party's employees. Each party has and hereby retains the right to exercise full control of and supervision over its own performance of the obligations under this Agreement, and retains full control over the employment, direction, compensation and discharge of all employees assisting in the performance of such obligations, including without limitation all matters relating to payment of such employees, including compliance with social security taxes, withholding taxes and all other regulations governing such matters. In addition, each party will be responsible for its own acts and those of its own subordinates, employees, agents and subcontractors during the performance of that party's obligations hereunder.

SECTION X

TERM AND TERMINATION

(a) Term - Upon execution by all parties hereto, this Agreement shall become effective as of the date first shown on Page 1 of this Agreement, and shall remain in effect until terminated by either party in accordance with paragraphs (b), (c), (d), or (e) below.

(b) Termination for Breach - Either party may, upon prior written notice to the other party, terminate this Agreement in the event the other party is in default or breach of this Agreement and such breach or default is not corrected within thirty (30) days after the breaching party has been notified of same.

(c) Termination for Convenience - Upon six (6) months written advance notice to the other party, either party may terminate this Agreement.

(d) Acts of Insolvency - Either party may terminate this Agreement or any portion thereof, effective immediately, by written notice to the other party, if said other party (1) applies for or consents to the appointment of or the taking of possession by receiver, custodian, trustee, or liquidation of itself or of all or a substantial part of its property; (2) becomes insolvent; (3) makes a general assignment for the benefit of creditors; (4) suffers or permits the appointment of a receiver for its business or assets; (5) becomes subject to any proceeding under any bankruptcy or insolvency law whether domestic or foreign, voluntarily or otherwise; or (6) fails to contest in a timely or appropriate manner, or acquiesces in writing to, any petition filed against it in an involuntary case under the Federal Bankruptcy Code or any application for the appointment of a

receiver, custodian, trustee, or liquidation of itself or of all or a substantial part of its property, or its reorganization, or dissolution.

(e) Termination of Interconnection Agreement. Unless otherwise agreed to by the parties hereto in writing, in the event that the Interconnection Agreement under Sections 251 and 252 of the Telecommunications Act of 1996, dated as of June 13, 1997, by and between BA and CLEC expires without being renewed, or expires or is terminated and no other interconnection agreement has been entered into by BA and CLEC, then this Agreement shall be deemed terminated effective on the date the aforesaid Interconnection Agreement expires or is terminated.

SECTION XI

NETWORK CONFIGURATION

Each party shall provide six (6) months advance written notice to the other party of any network configuration that may affect any of the services or compensation contemplated under this Agreement, and the parties hereto agree to use reasonable efforts to avoid service interruptions during any such network change.

SECTION XII

CONSTRUCTION AND EFFECT

All services contemplated under this Agreement are provided in accordance with any and all applicable regulatory requirements and effective tariffs filed with and approved by the appropriate federal and/or state regulatory bodies, as these tariffs and requirements may be modified from time to time. To the extent there is a conflict between the terms of any said tariff or regulatory requirement and this Agreement, the terms of the tariff or the regulatory requirement shall prevail. However, to the extent not in conflict with the provisions of the applicable tariffs or regulatory requirements, this Agreement shall supplement the tariffs or regulatory requirements, and it shall be construed to the fullest extent possible in harmony with such tariffs or regulatory requirements.

SECTION XIII

MISCELLANEOUS

(a) Headings. Headings used in this Agreement are for reference only, do not constitute part of this Agreement, and shall not be deemed to limit or otherwise affect any of the provisions hereof.

(b) Notices. All notices, requests, demands, or other communications required or permitted hereunder shall be in writing, shall be deemed delivered (1) on the date of delivery when delivered by hand, (2) on the date of transmission when sent by electronic mail or facsimile transmission during normal business hours with telephone confirmation of receipt, (3) one (1) day after dispatch when sent by overnight courier maintaining records of receipt, or (4) three (3) days after dispatch when sent by registered mail, postage prepaid, return-receipt requested, all addressed as follows (or at such other addresses as shall be given in writing by either party to their other):

If to BA:	Address:	1320 N. Court House Road, 9th Floor Arlington, VA 22201
	Attn.:	Manager-Local Interconnection
	Facsimile:	703 974.2188
	Telephone:	704 974 4614
If to CLEC:	Address:	
	Attn:	
	Facsimile:	
	Telephone:	

(c) Successors; Assignment. This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns, and nothing herein shall be construed to create any rights enforceable by any other person or third party. This Agreement may not be assigned by either party (except by BA to an affiliate or successor in interest) without the prior written consent of the other party, which consent shall not be unreasonably withheld.

(d) Waiver. No waiver of any right or term hereof shall be effective unless in a writing executed by the waiving party. No waiver of any right or privilege hereunder shall operate as a waiver of any subsequent or similar right or privilege.

(e) Modifications. This Agreement may be modified or amended only by a written agreement executed by the parties hereto.

(f) Counterparts. This Agreement may be executed in counterparts, all of which shall be considered one and the same agreement and each of which shall be deemed an original.

(g) Severability. If any term, provision, paragraph or clause of this Agreement or any application thereof shall be held invalid or unenforceable in any particular jurisdiction, the remainder of this Agreement and any other application of such term, provision, paragraph or clause shall not be affected thereby in such jurisdiction (where such remainder or application shall be construed as if such invalid or unenforceable term, provision, paragraph or clause has not been inserted), and this Agreement and such application of such term, provision, paragraph or clause shall not be affected in any other jurisdiction.

(h) Contingency. Neither party will be held liable for any delay or failure in performance of this Agreement from any cause beyond its control and without its fault or negligence including but not limited to acts of God, acts of civil or military authority, government regulations, embargoes, epidemics, wars, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, strikes, power blackouts, other major environmental disturbances, unusually sever weather conditions, inability to secure products or services of other persons or transportation facilities, or acts or omissions of transportation common carriers.

(i) Governing Law. Except as otherwise expressly provided herein, this Agreement shall be interpreted, construed and governed by the laws of the Commonwealth of Pennsylvania, without regard to conflict of law provisions.

(j) Confidentiality. Unless by mutual agreement, or except to the extent directed by a court of competent jurisdiction, neither party shall disclose this Agreement or the terms hereof to any person other than such party's affiliates or such party's officers, employees and consultants, who are similarly bound hereby. This paragraph shall not prevent the filing of this Agreement with a state or federal commission having jurisdiction over the parties hereto if such filing is required by rule or order of that commission; provided, however, that the parties hereto shall jointly request that the Agreement be treated as confidential by that commission to the extent permitted under the commission's regulations and procedures. Each party hereto must maintain the confidentiality of all message, billing, traffic, and call records, traffic volumes and all other material information and data pertaining to the traffic covered by this Agreement and the carriers and end users associated with such traffic.

(k) Remedies under Law. All remedies available to the parties hereto under the terms of this Agreement shall be in addition to, and not by way of limitation of, any other rights that said parties may have at law or equity, none of which are hereby waived.

(l) Entire Agreement. This Agreement, including all Attachments and Schedules attached hereto, contains the entire agreement, and supersedes and voids any prior understanding, between BA and CLEC regarding the subject matter hereof.

In witness whereof, the undersigned parties have caused this Agreement to be executed on their behalf this _____ day of _____, 199_.

Witness: CLEC

_____ By:_____

Witness: Bell Atlantic - Pennsylvania, Inc.

_____ By:_____

ATTACHMENT A

BASIS OF COMPENSATION

CHARGES FOR ADMINISTRATION OF ITORP AND ITORP PROCESSING

A. Bell Atlantic - Pennsylvania, Inc. charges the following rates for providing ITORP services:

1.	Administrative Charge (monthly) (includes Clearing House function)		$100.00
2.	Processing Charge Elements:		
	a.	Terminating Traffic (per message)	$0.00199
	b.	Minute/Message (per message)	$0.00001
	c.	800/888 Message (per message)	$0.00105
	d.	Net Compensation (per message)	$0.00001
	e.	Collected Revenue Processing (per message)	$0.00026
3.	Minimum Monthly Processing Fee (monthly)		$100.00
4.	Alternately Billed Calls (per message)		$0.0434

ATTACHMENT B

I.

Message Telecommunications Service - Terminating to CLEC

Rate Element	Billing Company
Carrier Common Line	CLEC
End Office	CLEC
Transport	Based on negotiated billing percentages (BIPs)

II.

800/888 - Terminating to or originating from CLEC Customers

Rate Element	Billing Company
Carrier Common Line	Originating Company
End Office	Originating Company
Transport	Based on negotiated billing percentages (BIPs)
Query	Originating Company

III.

Local Exchange - Terminating to CLEC

Rate Element	Billing Company
Local Call Termination Charge	CLEC
Transport	Based on negotiated billing percentages (BIPs)

MS-NYAB-0001

TWO PARTY SWITCHED CARRIER ACCESS BILLING SERVICES AGREEMENT

THIS TWO PARTY SWITCHED CARRIER ACCESS BILLING SERVICES AGREEMENT ("Agreement") is made and entered into as of MARCH 15, 2000 ("Execution Date"), by and between New York Access Billing, LLC, a New York limited liability company ("NYAB"), and Cavalier Telephone, LLC , a Virginia limited liability company ("CTV"). CTV and NYAB are individually a "party", and collectively the "parties".

RECITALS

WHEREAS, NYAB desires to develop and provide local interconnection access billing and switched carrier access billing services (Exhibit 1.1 or "Billing Services") to CTV for CTV's portion of the switched carrier access services ("Access Services") jointly provided by CTV and any Incumbent Local Exchange Carrier ("LEC") to an Interexchange Carrier ("IXC") or Local Interconnection Carrier ("LIC"); and

WHEREAS, NYAB desires to provide, manage and coordinate, and CTV desires that NYAB provide, manage and coordinate, the provision of Billing Services for the Access Services;

NOW, THEREFORE, in consideration of the mutual promises set forth below, and for other good and valuable consideration, the adequacy and receipt of which are acknowledged, the parties mutually agree as follows:

1. NYAB's Obligations

1.1 Billing Services. Subject to the provisions of this Agreement, and in accordance with Exhibit 1.1, NYAB shall perform (or cause to be performed) the Billing Services described therein. CTV hereby authorizes NYAB and/or its vendors or subcontractors to bill CTV's portion of the access revenues for service jointly provided by CTV and ILEC within a single state in CTV's service territory. This authorization may be provided by NYAB to the billed parties by the notice attached to this Agreement as Exhibit 1.2.

1.2 Additional Services. In addition to the performance of the Billing Services, NYAB may provide additional billing and collection services ("Additional Services") from time to time agreed upon in writing by NYAB and CTV. Except as provided for in any agreement pertaining to Additional Services, which agreement shall be attached as an amendment to this Agreement, the terms and conditions governing the Additional Services shall be identical to the terms and conditions of this Agreement. Thereafter, for purposes of this Agreement, the term Billing Services shall be deemed to include Additional Services.

1.3 Employees and Contractors. NYAB shall employ, train, supervise and fully compensate all of its employees employed by NYAB to perform its obligations under the Agreement ("NYAB Employees"). All NYAB Employees shall be subject at all times to the direct supervision and control of NYAB. NYAB shall have the sole and complete responsibility for paying any and all salaries, taxes (including, federal, social security, state, local, withholding, unemployment and all other taxes) and all other expenses, claims and costs relating or owing to all NYAB Employees. To the extent NYAB retains, engages otherwise uses subcontractors described in Section 2.4 relative to its performance under the Agreement, then NYAB shall be solely and fully responsible for the compensation and supervision of such subcontractors and their actions and/or inactions with respect to the performance of their obligations as subcontractors under this Agreement.

1.4 Time of the Essence. The parties recognize and agree that time is of the essence with respect to the performance of each party's obligations under this Agreement, and that distribution of revenues for all parties shall be done in a timely manner. Accordingly, if there is any dispute or disagreement with respect to the performance of any such obligations which might or would delay the schedule set forth in this Agreement, to the extent technically and operationally feasible, each party shall proceed with the performance of such obligations according to the existing schedule as if such dispute or disagreement were non-existent and an officer (Vice President or other authorized representative) of each party shall either negotiate in good faith a mutually agreeable solution or implement another method of dispute resolution (including arbitration)

1.5 NYAB Representative. NYAB shall designate a representative ("NYAB Representative") who shall interface with CTV's representative as described in Section 2.3. It is agreed and understood that NYAB Representative shall have the authority to make routine day-to-day decisions on behalf of NYAB but shall have no authority, in any case, to modify, amend or otherwise change the terms and conditions of this Agreement.

1.6 Invoicing. NYAB shall bill (or cause to be billed) CTV for the Billing Services at the Rates described in Section 2.1 on a monthly basis by submitting an invoice to CTV together with the "Information and Summaries" to CTV as described in Exhibit 1.1, Section 1.4.

2. CTV Obligations.

2.1 Rates and Payment. (a) Rates. CTV shall compensate NYAB for the performance of the Billing Services at the following rates and charges ("Rates"):

Service	Rate	
Meet Point Billing		
Record Processing and	0 - 250,000 records	$.008/record
Bill Preparation for	250,001 - 500,000	$.007/record
CTV	500,001 - 750,000	$.006/record
(all traffic originating within a single	750,001 - 2,500,000	$.005/record
state in the CTV Region)	2,500,001- 3,500,000	$.004/record
	Over 3,500,000	$.002/record
	Ten percent (10%) discount on all records	
Initial Setup	$1,500.00/state	
Local Interconnection		
Record Processing and Bill Preparation for CTV's LIC Access	$.002/record	
Initial Setup	$0.00/state	
Billing Services (including mailing, polling data from customers and electronic transmission to the IXC, and establish initial billing arrangements)	Paper, envelopes diskettes and postage at cost. Electronic transmission setup and telephone usage and establishing initial billing arrangements at cost	
Programming		
· Rate Changes	At Cost, current estimate $60 per hour	
· Tariff Structure Changes	At Cost, current estimate $60 per hour	
Record Retention		
· Diskettes	No Charge	
· Microfiche or CD's	At Cost	

(b) Records. With respect to Rates, a "record" is a call for purposes of this Agreement. As to the Programming costs for Rate Changes and Tariff Structure Changes, such costs may increase once every 12 months during the term of this Agreement, but such increase in the hourly rates shall be limited to 10% of the then current hourly rates.

(c) Payment. CTV shall pay all NYAB invoices for Billing Services received from NYAB within 15 days from receipt ("Due Date") by wire transfer, certified or cashier's check, company check or cash as NYAB shall designate from time to time upon notice to CTV. If payment is not received by NYAB on or before the Due Date, (1) CTV will also pay NYAB interest on such amounts due equal to 18% per annum or the maximum amount of

interest permitted by law, whichever is less from the Due Date until paid, and (2) CTV shall be deemed in Breach (as defined in Section 5.1) of this Agreement without regard to the Cure Period (as defined in Section 5.1).

2.2 Information. Subject to CTV's' right to withhold information that is confidential or proprietary and/or subject to any contractual or legal limitations or prohibitions, CTV shall perform its obligations and provide NYAB with the information set forth in Exhibit 1.1, all in accordance with the timetable set forth therein.

2.3 CTV Representative. CTV shall designate a representative ("Company Representative") who shall interface with the NYAB Representative responsible for the performance of the Billing Services, and/or other appropriate management personnel of NYAB and generally serve as CTV's point-of-contact and the primary liaison between CTV and NYAB. It is agreed and understood that Company Representative shall have the authority to make routine day-to-day decisions on behalf of CTV but shall have no authority, in any case, to modify, amend or otherwise change the terms and conditions of this Agreement.

2.4 Subcontractors. The parties acknowledge and agree that NYAB may subcontract with ACM, Inc., or any other third party to perform all or any part of the Billing Services in accordance with this Agreement, provided, however, that CTV must approve in writing (which approval shall not be unreasonably withheld, conditioned or delayed) all such subcontracting to a third party other than ACM, Inc., and provided, further, however, that if CTV approves a subcontractor whose charges to NYAB exceed the Rates (or any component thereof), such increased costs to NYAB shall be reflected in an increase to the Rates (or any component thereof) on a pass-through basis, without markup and without the need for an amendment to this Agreement. CTV further acknowledges and agrees that NYAB's sole liability and obligations, and CTV's sole recourse or remedy for any breach and/or nonperformance of any of the Billing Services by NYAB (or by any subcontractor described in this section), shall be determined solely with respect to the provisions, limitations and remedies set forth in Sections 5 and 8.

2.5 Collection Services. Subject to the provisions of this Agreement and on a monthly basis, CTV shall (a) open, remove and inspect the contents of all envelopes and process all contents and envelopes and otherwise take all necessary action to collect IXC, ILEC and LIC remittances, and (b) provide NYAB with a written list of those IXCs, ILECs and LICs from whom payment has been received (by mail, overnight courier or facsimile transmission), no later than 20 days prior to the date NYAB is to prepare and render the next monthly Bills as described in Exhibit 1.1. NYAB shall not be responsible nor obligated in any manner, to collect amounts due CTV stemming from the Billing Services except as otherwise may be provided for in any agreement for Additional Services.

3. Representations and Warranties

3.1 Representation and Warranties of the Parties. NYAB and CTV each for itself only represent and warrant to each other that:

(a) Authority, No Breach. It has the right, power and authority to enter into, and perform its obligations under, this Agreement. The execution, delivery and performance of this Agreement shall not result in the breach or non-performance of any agreements it has with third parties. It has complied, in all material respects, with all existing Laws applicable to, and has no knowledge of any Law which would be materially violated by, its performance under this Agreement or the transactions contemplated to be performed by it hereby. As used in this Agreement, "Law(s)" mean Federal Communications Commission, New York Public Service Commission and all other governmental (whether international, federal, state, municipal or otherwise) statutes, laws, rules, regulations, ordinances, codes, directives, and orders.

(b) Corporate/Entity Action. It has taken all requisite corporate or entity action to approve the execution, delivery and performance of this Agreement, and this Agreement constitutes a legal, valid and binding obligation upon itself in accordance with its terms.

(c) Litigation. As of the Execution Date, there is no outstanding or pending litigation, judgment or proceeding, involving or materially and adversely affecting (or potentially affecting) the transactions provided in, or contemplated by, this Agreement.

4. Indemnification Disclaimer

Neither party shall be required or obligated, directly or indirectly, in any respect to protect, defend, indemnify and hold harmless the other party and its directors, managers, officers, employees and members from any and all claims, losses, demands, expenses, suits or other action or any liabilities whatsoever, including, but not limited to, costs and attorney fees (together "Liabilities"), whether suffered, made or asserted by any Person for invasion of privacy, property damage, personal injury to, or death of any person, or for losses, damages or destruction of property, whether or not owned by others, resulting from any failure on its part to perform or comply with any other terms or conditions of this Agreement.

5. Breach

5.1 Definition. If NYAB or CTV shall fail to perform (whether any such failure shall arise as the result of the voluntary or involuntary action or inaction of such party), in any material respect, any of its obligations set forth in this Agreement, including without limitation any violation of Law (which is material and which adversely affects either party's obligations under the Agreement) and such failure shall continue unremedied for a period of 30 days following notice from the non-breaching party or such shorter period as may apply under Law ("Cure Period"); then such failure shall, upon and from the expiration of the Cure Period, constitute a "Breach(ing)", provided, however, that the Cure Period shall not apply to CTV's failure to make payment under Section 2.1(c). Such Breach shall not be deemed to occur, and shall be abated day-for-day, where such Breach is directly or primarily caused by (a) the action or inaction of the other party or (b) a Force Majeure (Subject to Section 6.2).

5.2 Consequences. In the event of a Breach, the non-Breaching party may, in its sole discretion, terminate this Agreement and have no further obligations or liability hereunder to the Breaching party; except only that (a) CTV shall pay NYAB (pursuant to Section 2.1) any amounts due, owing and unpaid to NYAB for Billing Services actually and properly rendered and which are not subject to a bona fide dispute and (b) each party shall comply with its obligations relating to Proprietary Information.

6. Force Majeure

6.1 Definition. As used in this Agreement, a "Force Majeure" event shall mean any Law or governmental action, or any other circumstance reasonably beyond a party's control including, but not limited to, any work strike or work stoppage or any power outage due to weather conditions.

6.2 Consequences. If any party's failure or delay in the performance of any obligation under this Agreement ("Non-Performing Party") results directly and primarily from a Force Majeure event, then that failure or delay shall not constitute a Breach; provided, however, that in the event such failure or delay continues for a period in excess of 30 days, the other party shall have the right to terminate this Agreement without any further obligations or liability hereunder, except only those described in Sections 5.2(a) and 5.2(b).

7. Term, Renewal and Termination

7.1 Term. The term of this Agreement shall commence upon the Execution Date and shall expire on the Expiration Date ("Term"). The "Expiration Date" means the earlier to occur of (a) the last day of the 12th calendar month following the Execution Date, (b) the last day of any renewal period as applicable, pursuant to Section 7.2, (c) the earlier termination of this Agreement pursuant to the terms of this Agreement, or (d) NYAB's (or its assignee under Section 10.7) ceasing to exist for any reason.

7.2 Renewal. This Agreement shall renew automatically as to all parties on the same terms and conditions (or such other terms and conditions to which the parties may agree) (a) for one year unless either CTV or NYAB shall give written notice ("Non-renewal Notice") at least 90 days prior to any potential Expiration Date of its intent not to renew this Agreement or (b) if applicable for the unexpired portion of the Transition Period described in Section 7.3(b).

7.3 Termination Grounds and Consequences.

(a) General Termination Rights. Either party may terminate this Agreement pursuant to and as provided in Section 5 (Breach) or Section 6 (Force Majeure). In addition, if any party (1) consents to the appointment of, or taking possession by, a receiver, trustee, custodian or liquidator of a substantial part of its assets, files a bankruptcy petition in any bankruptcy court proceeding or answers, consents or seeks relief under any bankruptcy or similar law or fails to obtain a dismissal of an involuntary bankruptcy petition filed against it within 60 days of filing, or (2) makes any representation or warranty in this Agreement, which is incorrect and has or may have a material and adverse effect on the other party (as reasonably determined by such non-breaching party), and such incorrect representation or warranty shall continue unremedied for a period of 30 days after written notice of such incorrect representation or warranty (except only where this Agreement specifically provides additional time and/or other options or remedies for any such failure; or, with respect to an obligation that is susceptible of cure within a reasonable time period so long as such party is using its commercially reasonable efforts to promptly cure), then the other party may terminate this Agreement without any further obligations or liability hereunder, except only those described in Sections 5.2(a) and 5.2(b).

(b) 180 Day Termination. (1) Either party may terminate this Agreement at any time in its respective sole discretion without cause by delivering a written notice ("180 Day Notice") to the other party with no further obligations to each other, except as provided for in this Section 7.3(b) and with respect to Proprietary Information. (2) During the period ("Transition Period") commencing upon the receipt of the 180 Day Notice and ending on the earlier of the 180th day thereafter or the Expiration Date, each party shall (A) continue to perform (or cause to be performed) its obligations under this Agreement, and (B) in good faith and in a prompt and timely fashion use its commercially reasonable efforts to provide the other party with sufficient information, cooperation and assistance to terminate the Billing Services , or to facilitate effective and timely transition of the Billing Services to either CTV or a third party designated by CTV, including, without limitation, providing on a non-dedicated basis and without any charge to any party, a management level employee to assist in such termination or transition ("Transition Obligations").

8. LIMITATION OF LIABILITY. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT IN NO EVENT SHALL (A) ANY PARTY BE LIABLE FOR ANY LIABILITIES OR DAMAGES OF ANY NATURE WHATSOEVER, INCLUDING ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT OR SPECIAL LOSSES OR DAMAGES (INCLUDING, WITHOUT LIMITATION, LOST PROFITS, LOST REVENUES AND LOSS OF BUSINESS) OF ANY OTHER PARTY, WHETHER FORESEEABLE OR NOT, WHETHER OCCASIONED BY ANY FAILURE TO PERFORM OR THE BREACH OF ANY OBLIGATION UNDER THIS AGREEMENT FOR ANY CAUSE WHATSOEVER OR OTHERWISE; AND (B) ANY PROJECTIONS, FORECASTS, ESTIMATIONS BY ANY PARTY BE BINDING AS COMMITMENTS OR, IN ANY WAY, PROMISES BY SUCH PARTY. A PARTY'S SOLE AND EXCLUSIVE REMEDY FOR ANY AND ALL LIABILITIES AND DAMAGES INCURRED BY SUCH PARTY DUE TO ANY OTHER PARTY'S FAILURE TO PERFORM OR THE BREACH OF ANY OBLIGATION UNDER THIS AGREEMENT FOR ANY CAUSE WHATSOEVER OR OTHERWISE SHALL BE TO TERMINATE THIS AGREEMENT.

9. Confidentiality.

9.1 Ownership of Proprietary Information. For the purposes of this Section 9:

(a) "Information" means and includes information of any nature in any form, including without limitation all writings, memoranda, copies, reports, papers, surveys, analyses, drawings, letters, computer printouts, software, specifications, data, graphs, charts, sound recordings and/or pictorial reproductions which have been reduced to written form.

(b) "Proprietary Information" means: (1) all technical, financial, business, marketing, subscriber-related Information contained therein or derived therefrom, or other Information pertaining to the Access Services and provided to NYAB by CTV or obtained by NYAB in connection with performance of its obligations pursuant to this Agreement (including without limitation all elements of the subscriber databases, business plans, projections and forecasts for the Access Services and data compiled with respect thereto by a Person other than NYAB and maintained in NYAB's databases) which Information shall be owned by CTV; (2) any Information pertaining to NYAB's Billing Services, which Information shall be owned by NYAB; (3) the Information within the body of this Agreement (which Information shall be owned by both parties); and (4) all Information other than the Information that is described in Section 9.1(b)(1), (2) and (3) that is marked as proprietary with an appropriate legend, marking, stamp or other obvious written identification by the person disclosing the Proprietary Information ("Disclosing Party") prior to disclosure.

(c) Subject to the above, all Proprietary Information in tangible form of expression which has been delivered or thereafter created by copy or reproduction pursuant to this Agreement shall be and remain the property of the Disclosing Party and any and all copies and reproductions thereof shall, within 30 days of written request by the Disclosing Party, be either promptly returned to the Disclosing Party or destroyed at the Disclosing Party's direction. In the event of such requested destruction, the person to which Proprietary Information is disclosed ("Receiving Party") shall provide to the Disclosing Party

written certification of compliance therewith within 30 days of such written request.

9.2 Obligation Concerning Proprietary Information.

(a) General Restrictions. Upon receiving Proprietary Information, the Receiving Party shall keep in strict confidence and not disclose to any Person any of the Disclosing Party's Proprietary Information except as otherwise provided by the terms and conditions of this Agreement. The Receiving Party shall not use such Proprietary Information except for the purposes expressly identified herein without the prior written approval of the Disclosing Party. The Receiving Party will make Proprietary Information of the Disclosing Party available only to those of its employees or subcontractors having a "need to know" in order to carry out their functions in connection with the purposes reflected herein. The Receiving Party shall not mechanically copy or otherwise reproduce Proprietary Information except for the purpose of internal evaluation. Each of such copies or reproductions shall contain the same proprietary marking as the original.

(b) Additional Marking Requirements. In the event either party discloses its Proprietary Information described in Section 9.1(b)(4) to the other party unmarked or in oral or visual form, the Disclosing Party shall promptly, but not later than 10 days following the disclosure, inform the Receiving Party that such Proprietary Information is deemed proprietary or shall provide the Receiving Party with a brief written description of such disclosure and the names of the Receiving Party's representatives to whom and where such disclosure was made and shall mark (or request that it be marked) such Proprietary Information in the manner set forth above in Section 9.1(b)(4).

(c) Exceptions. The Receiving Party shall not be precluded from, nor liable for, disclosure or use of any Proprietary Information if the same: (1) is in or enters the public domain, other than by a Breach of this Agreement; (2) is known to the Receiving Party at the time of first receipt, or thereafter becomes known to the Receiving Party prior to or subsequent to such disclosure without similar restrictions from a source other than the Disclosing Party, as evidenced by written records;(3) is developed by the Receiving Party independently of any disclosure under this Agreement as evidenced by written records; or (4) is disclosed to governing body members, employees, lenders, subcontractors and representatives of Disclosing Party or its permitted assignees under Section 10.7 who need to have such Proprietary Information.

10. Miscellaneous.

10.1 Notices. Any notice, inquiry or demand required or permitted to be given hereunder shall be in writing and shall be deemed received when delivered personally by overnight delivery with a national overnight courier company, deposited in the U.S. mail via certified mail and postage prepaid or transmitted by facsimile (with transmission confirmed) to the other party at such address or facsimile number on the signature page to this Agreement or other address or facsimile number as it shall have designated by notice in writing.

10.2 No Agents; Relationship. Nothing in this Agreement shall be construed to constitute a partnership, other joint venture or any other legal relationship between the parties. No party is authorized to act as an agent for or on behalf of the other party in any manner whatsoever. This Agreement is for the benefit of the parties and will not be deemed to provide third parties with any benefit, remedy, claim, right of action or other right.

10.3 Use of Names and Logos. Neither party shall use the name or logo of the other without the prior written consent of the affected party or parties. This provision shall not limit NYAB's ability to make factual references to CTV's involvement in this project in NYAB informational materials.

10.4 Severability. Nothing contained in this Agreement shall be construed so as to require the commission of any act contrary to Law, and wherever there is any conflict between any provision of this Agreement and any Law, such Law shall prevail; provided, however, that in such event, the provisions of this Agreement so affected shall be curtailed and limited only to the extent necessary to permit compliance with the minimum legal requirement, and no other provisions of this Agreement shall be affected thereby and all such other provisions shall continue in full force and effect.

10.5 Non-Waiver of Breach. Each party may specifically waive any Breach of this Agreement by the other party or extend any Cure Period, provided that no such waiver or extension shall be binding or effective unless in writing and no such waiver or extension shall constitute a continuing waiver of similar or other Breaches. A waiving party, at any time, and upon notice given in writing to the Breaching party, may direct future compliance with the waived term or terms of this Agreement, in which event the Breaching party shall comply as directed from such time forward.

10.6 RESERVED

10.7 Assignment. This Agreement may not be assigned by any party ("Assignor") without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed, provided, however, that Assignor shall not be required to obtain the consent of the other party for assignment of this Agreement to any Person controlling, or controlled by, or under common control with Assignor ("Affiliate"), any purchaser ("Purchaser") of all or substantially all of the assets of Assignor or any business organization ("Business Organization") with which or into which Assignor may merge or consolidate, provided, further, however, that such Affiliate, Purchaser or Business Organization, as the case may be, executes and delivers to the other party an assignment and assumption agreement within 30 days following the assignment of this Agreement. For purposes of this Agreement, (a) "Person" means any individual, corporation, partnership, limited liability company, proprietorship, association or any other entity, and (b) "control", "controlling", or "controlled" shall mean (1) the record or beneficial ownership of 50% or more of (i) the voting securities or other voting rights of a Person; or (ii) the beneficial interests of a Person, or (2) the right to appoint to a Person's Board of Directors, Management Committee or such governing body that has similar functions a majority of the members of such Board, committee or body. Except for those provisions of this

Agreement with respect to any claims, liability, limitations and remedies of Assignor occurring prior to an assignment under this Section 10.7, which provisions shall expressly survive such assignment of this Agreement, Assignor shall be released from this Agreement.

10.8 Miscellaneous. This Agreement (a) constitutes the entire agreement of the parties and supersedes all prior offers, negotiations and agreements, whether express or implied, oral or written with respect to the subject matter of this Agreement, (b) may not be modified or amended except in a writing signed by all parties, (c) may be executed (i) in counterparts, each of which shall be deemed an original, and all of such counterparts shall constitute but one and the same document or (ii) via counterpart facsimiles upon (1) the transmission by facsimile by each party of a signed signature page thereof to the other party, with return receipt by facsimile requested and received and (2) the parties' agreement that they will each concurrently post, by overnight courier, a fully executed original counterpart of the Agreement to the other party, (d) shall be binding upon and inure to the benefit of the parties and their respective successors and assigns, and (e) shall be construed and governed in accordance with the laws of the State of New York, without giving effect to the principles of conflicts of laws thereof. The terms and provisions contained in this Agreement that expressly survive for a period or by their sense and context are intended to survive the performance thereof by the parties will so survive the completion of performance and termination of this Agreement for the period indicated or, if no period is indicated, for the applicable statute of limitations. The term "Agreement" shall mean collectively this document and the schedules and exhibits attached hereto, and any agreement expressly incorporated herein, as the same may be amended, modified or supplemented from time to time. Capitalized terms used in any schedule or exhibit and not otherwise defined have the meanings given such terms in this Agreement. The descriptive headings of the several sections and paragraphs of this Agreement are inserted for convenience only and do not constitute a part of this Agreement. Words having well-known technical or trade meanings will be so construed, and all listings of items will not be taken to be exclusive, but will include other items, whether similar or dissimilar to those listed, as the context reasonably requires.

IN WITNESS WHEREOF, each of the parties has duly executed and delivered this Agreement as of the Execution Date.

NYAB:

NEW YORK ACCESS BILLING, LLC

By: _____
Name: Douglas Hinkley
Title: Chairman
100 State Street, Suite 650
Albany, New York 12207
Telephone (518) 443-2800
Facsimile (518) 443-2810

CTV:

CAVALIER TELEPHONE, LLC

By: David R Vernon

Name: DAVID R VERNON

Title: Applications MANAGER

2134 West Laburnum Ave

Richmond, VA 23227

Telephone (804) 422-4550

Facsimile (804) 422-4549

EXHIBIT 1.1

BILLING SERVICES
AND
PERFORMANCE STANDARDS

NYAB and CTV will perform, or cause to be performed, its respective obligations pertaining to the Billing Services in accordance with the standards and methodology set forth in this Exhibit 1.1 and the Agreement.

1. General Obligations and Services

1.1 Receipt and Acceptance of Information. Receipt and acceptance of information includes the following:

(a) Accept data (access records) in mag tapes, diskette, or via electronic transmission as CTV and NYAB shall agree; and

(b) Receive the data in either EMR or AMA records in Bellcore Accounting Format ("BAF").

CTV (and/or the connecting Independent) shall provide NYAB with the data no later than 20 days prior to the date NYAB is to prepare and render the Bills, which date shall be agreed to by the parties prior to the beginning of NYAB's rendering Billing Services.

NYAB shall notify CTV in writing upon receipt of any information from CTV, ILEC, IXC or LIC which NYAB, in its reasonable discretion, determines materially affects billing and/or tariff charges, or this Agreement.

1.2 Bill Preparation. Switched access bills ("Bills") will be prepared on a monthly basis with the bill date no later than the 15th day of the calendar month. The Bills will contain, or be prepared in accordance with, the following:

(a) Bills will reflect the calendar month usage received by NYAB on or before the 3rd day of the current month;

(b) Bills will be prepared utilizing tariffed rates of CTV when billing under single bill multiple tariff method. CTV shall provide NYAB with a copy of the entire current tariff prior to the start of Billing Services, and such information shall include billing percentages where needed;

(c) Bills will be printed with Bill Account Numbers (BAN) on the LIC bills as provided by CTV;

(d) Bills will reflect tariff changes affecting rates where such changes have been provided to NYAB by CTV on not less than 30 days written notice;

(e) Bills will state that the LIC makes checks payable to "Cavalier Telephone, LLC," will provide CTV's mailing address for the same and the payment due date;

(f) Bills will provide the name and telephone number of a person at CTV to contact regarding billing inquiries from the LICs; and

(g) Such other information as may be agreed to by CTV and NYAB.

1.3 Bill Printing. NYAB will (a) print the Bills with printing quality acceptable to the LICs, and (b) assemble and mail, or electronically transmit, these bills to the LICs.

1.4 Information and Summaries to Companies. CTV shall be provided with the following:

(a) A paper copy of the electronically transmitted Bill at no additional charge, and a summary containing (1) the LIC name and address, (2) usage period, (3) bill dates, (4) usage volumes, (5) amounts billed, and (6) comparison of the usage volume and amount billed to prior months, averages of prior quarter, same month last year;

(b) Based on information provided by CTV under Section 2.5 of the Agreement, a list of amounts past due from each ILEC, IXC and LIC in writing (by mail, overnight courier, facsimile transmission, or electronic transmission (e-mail or web file transfer)), no later than three business days prior to the bill date;

(c) Necessary billing information and/or verification of any bill with underlying data when required by CTV, in conjunction with a billing inquiry from the LIC or CTV (NYAB shall charge for requests for data and/or special studies for purposes other than an LIC inquiry, and the charge shall be at the applicable ICB rate); and

(d) Such other information as may be agreed to by CTV and NYAB.

1.5 Errors. In the event a Bill is processed with errors not introduced by the data supplied by CTV, ILEC, IXC or LIC, the Bill shall be corrected and resubmitted to the LIC at no additional charge to CTV. NYAB will cooperate reasonably with CTV's efforts, if any, to verify that the Bills are in accordance with the tariffs. CTV shall notify NYAB in writing of any error(s) in any Bill(s), and NYAB shall make such corrections and resubmissions within 48 hours after either (a) NYAB knows or has reason to know of such errors or (b) CTV notifies NYAB of the error.

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EXHIBIT 1.2

[FORM LETTER TO LICs]

NEW YORK ACCESS BILLING, LLC LETTERHEAD

Name of _____
Address

Re: Billing Access Revenues for Service Jointly Provided by _____ ("Independent") and Cavalier Telephone, LLC ("CTV")

Dear _____:

CTV has engaged the services of the New York Access Billing, LLC ("NYAB") to bill CTV's portion of the access revenues ("Access Revenues" or "Access Charges") for interstate and intrastate service jointly provided by CTV and Independent within CTV's _____ operating territories.

Pursuant to that engagement, NYAB is hereby authorized to bill access charges from Independent when the services are jointly provided by Independent and CTV. Access Charges will be determined utilizing (1) the "Single Bill, Multiple Tariff" arrangement and (2) CTV's respective tariff. The charges will be combined on a single bill.

Should you have any questions regarding the above, you may contact either CTV at _____(- - , Attention_____) or the NYAB (518-443-2800, Attention _____, _____).

Cordially yours,

_____

cc: Cavalier Telephone, LLC

K:\Data\TELECOM\NE11724\Cavalier clean.wpd

EXHIBIT 4

STEVENS & LEE
LAWYERS & CONSULTANTS

17 North Second Street
16th Floor
Harrisburg, PA 17101
(717) 234-1090 Fax (717) 234-1099
www.stevenslee.com

Direct Dial: (717) 255-7365
Email: mag@stevenslee.com
Direct Fax: (610) 988-0852

June 1, 2007

VIA ELECTRONIC MAIL AND US Mail

Joseph M. Ruggiero, Esq.
Assistant General Counsel
Verizon Inc.
1515 N. Courthouse Rd., Ste. 500
Arlington, VA 22201

Re: Cavalier Telephone Company Mid-Atlantic, LLC v. Verizon Pennsylvania Inc.,
Docket No. C-20055343

Dear Mr. Ruggiero:

Enclosed please find the remainder of Cavalier Telephone Mid-Atlantic, LLC's Supplemental Discovery Responses in the above-captioned matter. As you know, by email dated April 24, 2007, Verizon previously identified specific Interrogatories that it deemed critical for Deposition preparation. Cavalier provided responses to all of those identified Interrogatories on April 27, 2007.

The Depositions in this matter are mostly complete, and therefore, Cavalier is now providing responses to the remainder of the Interrogatories identified at the Discovery Conference before ALJ Weismandel. Included herewith are responses to the following Verizon Interrogatories:

Set I- 4, 5, and 32

Set II - 3-9, 25, 87-101, 107-136, 143, and 152.

As you know fully well, most of the above referenced Interrogatories relate to matters addressed in Verizon's Interrogatories propounded in the pending PA PUC case at Docket No. C-20067132, to which Cavalier responded on May 14, 2007. Furthermore, as you can see by the responses, the overwhelming majority of these Interrogatories relate to a type of service (tandem transit service) for which Cavalier has no customers. As such, even though Cavalier has provided responses, these Interrogatories have no bearing whatsoever on the case at bar.

Accordingly, in light of the responses enclosed herewith, and the supplemental responses provided prior to the Depositions, and the prior responses provided in the C-20067132 case, Cavalier respectfully requests that Verizon withdraw the Motion for Sanctions that was filed today in this matter.

Should you have questions, please do not hesitate to contact me. As you know, Cavalier and Verizon have multiple overlapping cases underway in several jurisdictions, and as the ALJ has noted, it is incumbent upon counsel to communicate with one another to resolve discovery disputes in a reasonable fashion. In the future, if you believe you have not received discovery responses which you feel are due or overdue, all you have to do is contact Rick Hicks or myself and give us a reasonable chance to confer with our client and respond before you unnecessarily seek to involve the ALJ.

Best regards,

STEVENS & LEE

Michael A. Gruin

Enclosure
cc: Renardo L. Hicks
Sharon Glover, Esq. (via electronic mail only)
Steve Perkins Esq. (via electronic mail only)
Austin Schlick (via electronic mail only)
Scott Attaway (via electronic mail only)
ALJ Wayne Weismandel (w/o enclosures)

EXHIBIT 5

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

In the Matter of the Complaint of Cavalier Telephone Mid-Atlantic, LLC Against Verizon Pennsylvania Inc. for Breach of Interconnection Agreement and Non-Payment of Access Charges	)))))	Case No. C-20055343

STATEMENT 2.2
SURREBUTTAL TESTIMONY OF
JOHN J. HARABURDA

March 17, 2006

Q. Have you reviewed the reply testimony filed by Mr. Bill Munsell on behalf of Verizon Pennsylvania Inc. ("Verizon")?

A. Yes.

Q. Do you disagree with any principal points of his testimony?

A. Yes. Mr. Munsell's testimony shows how Verizon has left Cavalier with open balances not contested with valid disputes, by using a broad, open and flawed interpretation of the ICA to justify a lack of control over Verizon's own network, by failing to substantiate any data that Verizon has allegedly used to dispute Cavalier's billing, and by simply failing to file some of Verizon's purported disputes. As a result of these tactics, Cavalier has billed Verizon, and Verizon has short paid invoices without substantiating disputes, as well as not complying with its obligations under an interconnection agreement with Cavalier. Cavalier is thus left without proper compensation.

Q. Why do you claim that Verizon has not defended its dispute process?

A. At a high level, Verizon does not see all the traffic that it should in its Traffic Trak or Traffic Track system, and thus its analysis is invalid.

Q. Why do you think Verizon's underlying data is invalid and corrupt?

A. Cavalier has identified, and Verizon has agreed, that discrepancies existed in the gross numbers for minutes of use shown by Verizon's Traffic Track data. These discrepancies meant that Verizon was terminating minutes of traffic to Cavalier but not showing or reporting those minutes in Traffic Track. There are three areas where Verizon failed to associate traffic volumes to Cavalier and thus underreported its Traffic Track data. Verizon has not even acknowledge the existence of an issue in two of those

three areas, and it has never offered any justification whatsoever to support why its numbers are valid for generating any type of dispute. Given the inconsistencies identified to date, Cavalier believes that any supporting information relied upon by Verizon is suspect.

The validity of Verizon's purported disputes is further undermined by a key fact that I mentioned above: Verizon has not even addressed two of the three overall issues affecting the minutes of use (MOUs) billed by Cavalier, in the eighteen and a half months of discussion that have ensued since Verizon began the current round of disputes against Cavalier's bills. Verizon was forced to admit the glaring fact that Traffic Track did not acknowledge the existence of some of the switches that Cavalier uses to provide service. Even Verizon has not yet found a way to deny the existence of a switch used to provide dial tone to tens of thousands of customers. However, Verizon has still not addressed the fact that Traffic Track also misses entire trunk groups or entire trunk group identification codes (TCICs) that represent unreported MOUs that Verizon terminates to Cavalier.

These issues are further complicated by Verizon's flawed dispute logic.

Q. Why do you challenge the underlying logic of how Verizon calculates a dispute?

A. The base logic used by Verizon is based on imperfect data and completely disregards the terms of the parties' interconnection agreement in calculating volumes of minutes billable to Verizon. Verizon only expects to be billed for minutes originated by Verizon and has built in no impact for whether Verizon delivers the third party traffic on EMI to Cavalier. In addition, the overarching trunking architecture and call-routing hierarchy is absent from any of the logic in Verizon's dispute calculation.

Q. How does that affect the putative validity of Verizon's disputes against Cavalier's bills?

A. Cavalier believes that Verizon's dispute process is critically flawed and cannot be used to challenge Cavalier's invoices. Even if Verizon's Traffic Track system had 100% reliable information, Verizon's dispute would still be invalid due to the flawed logic of refusing to take responsibility for "orphaned" or "stranded" traffic (with missing, stripped, or altered call-record information) for which Verizon itself nonetheless bills tandem transit charges, and refusing to exert control over how other carriers route calls that pass through Verizon's network and terminate on Cavalier's network. Given that these two pillars of Verizon's disputes have been shown to be invalid, I am hard pressed to understand why or how Verizon's dispute should be accepted.

Q. Are you saying that Verizon has not substantiated its data?

A. Correct. Cavalier has already proved that the data used to dispute our bills was missing traffic on an aggregate level. Additionally, Verizon has never been able to substantiate the veracity of data that was not missing. Therefore, Cavalier has no reason to believe that the data presented in Traffic Track has any level of reliability.

Q. Can you please explain what the potential impact is to Cavalier given these issues?

A. Yes. Let's run through an example that will show the impact. Let's say that the total volume of terminating minutes between Verizon and Cavalier is 100,000 minutes. Take for an example that Verizon-originated traffic is 50% of traffic passing from Verizon to Cavalier. This splits the 100,000 minutes to 50,000 minute blocks for Verizon billing and EMI. Cavalier has shown that the Verizon Traffic Track system is in error by

approximately 17%, which we will round off to 20% for the sake of simplicity. This then tells Verizon that Verizon-billable traffic should be 40,000 minutes and that the EMI should also be 40,000 minutes. Cavalier has also identified how the EMI delivery is short by approximately 18% (again rounded off to 20%). Thus the 40,000 minutes in Verizon's Traffic Track of EMI to be distributed to Cavalier turns out to be an additional 20% lower and is actually 32,000 minutes. When applied to billing, Verizon should be billed 50,000 minutes[1] plus the discrepancy of records to be on EMI versus EMI actually sent[2] for a total of 68,000 minutes. However, Traffic Track is reporting that Verizon should be billed only 40,000 minutes, which would cause Verizon to believe that it is being overbilled by about 70% (28,000 MOUs "extra" over the 40,000 MOUs expected by Verizon), such that Verizon would dispute over 40% of Cavalier's bill (the 28,000 MOUs "extra" over the 68,000 MOUs billed by Cavalier).

When the dispute process can generate disparities of this magnitude, it cannot be trusted to challenge bills. I would also note that such disparities could arise from Traffic Track and EMI problems, even if traffic were optimally routed over the proper trunks, although proper routing would provide Cavalier with some means of mitigating the disparities.

Q. Why do you believe that Verizon is not properly applying the terms of the interconnection agreement and that Verizon's interpretation of that agreement is highly questionable?

---

[1] Split of actual traffic.

[2] 50,000 less 32,000 = 18,000 minutes.

A In general, Verizon has asserted that it can route any call down any trunk group to Cavalier. To make this proposal, Verizon relies on the interconnection agreement between Cavalier and Verizon ("the ICA"). However, Cavalier believes that Verizon has taken the references out of context and has ignored other references that specify how the trunking should be maintained. Cavalier also notes that Verizon has not even tried to claim that any industry standard (such as Telcordia) justifies such an assertion, or even to justify it based on any internal Verizon standards (such as internal engineering standards or practices compiled or published by Verizon).

Q. Does Cavalier have any issues with how other carries pass traffic to Verizon?

A No.

Q. Who are the parties to the ICA?

A. I am not a lawyer, but I understand that they are Cavalier and Verizon.

Q. How would the ICA control Verizon's interactions with other parties?

A Again, I am not a lawyer, but my understanding is that it would not.

Q. Are you saying that the way traffic is delivered to Verizon, to ultimately be terminated to Cavalier, is not handled in the ICA?

A. Correct.

Q. Does the ICA include language to define how Verizon should pass records to Cavalier?

A. Yes. Whether a third party sends a pre-dipped or non-dipped call to Verizon at any of Verizon's offices is completely irrelevant to how Verizon needs to pass traffic to Cavalier. Cavalier believes that it is this handoff arrangement between Verizon and Cavalier, as specifically defined in the Agreement, that Verizon is misinterpreting.

Q. What are the relevant sections of the ICA regarding proper trunking?

A. For IXC interLATA traffic, Attachment IV section 1.1.2 and Amendment 3 section 2.2.1.2 establishes the equal access trunk type[3] or Equal Access Trunks. Attachment IV 1.1.1 and Amendment 3 section 2.2.1.1 establishes the non-equal access trunk type[4] or Interconnection Trunks. Amendment 2 and Amendment 3 section 2.5.1 establishes the Direct Interconnection trunks at the End Office level[5]. These sections establish the handoff between Verizon and Cavalier and specify traffic types that are carried over these trunks. Additionally, Amendment 3, § 2.2.1 provides that the parties shall establish "...separate and distinct trunk groups" as just defined. Therefore, even in

[3] In Attachment III / (b)1 stipulates that "BA and CLEC will route their respective Meet Point Transit Service Traffic over the combined local Toll Trunk groups between them." Attachment III / (b)1 (i) states that "Meet Point transit Service traffic will be routed over the local and toll interconnection facilities used to terminate similar traffic directly between BA and CLEC when the Originating and Terminating company's end office switches subtend BA's Access tandem." These trunk group are established in Attachment IV 1.1.2 where it states that a specific set of trunk groups are to be established via the "... appropriate access tandem(s), to be used two-way, for the exchange of equal access traffic between MCI (read Cavalier) and purchasers of Bell Atlantic's switched exchange access services." Additionally in the successor ICA Amendment Number 3 in PA section 2.2.1.2 establishes "Access Toll Connecting Trunks for transmission and routing of Exchange Access traffic, including translated InterLATA toll free service access code... traffic, between Cavalier Telephone exchange service customers and purchasers of switched exchange access service via a Verizon access Tandem in accordance with the Agreement and this Attachment." In Cavalier's interpretation these references are the ONLY places where InterLATA traffic is mentioned in the Interconnection Agreement. Therefore this is the only path that this type of traffic should be passed. Additionally, it establishes specific trunk groups in the language, therefore even with shared tandem locations, the traffic needs to be routed over the correct trunk groups per this language.

[4] Attachment III / (b)1 stipulates that "BA and CLEC will route their respective Meet Point Transit Service Traffic over the combined local Toll Trunk groups between them." Attachment III / (b)1 (i) states that "Meet Point transit Service traffic will be routed over the local and toll interconnection facilities used to terminate similar traffic directly between BA and CLEC when the Originating and Terminating company's end office switches subtend BA's Access tandem." These trunk groups are established in Attachment IV . 1.1.1 where a separate set of trunk groups are established "... for the reciprocal exchange of combined local traffic, non-equal access IntraLATA toll traffic and local transit traffic to other ILECs." Again in the successor Amendment 3 2.2.1.1 the same logic is reinforced establishing "Interconnection trunks for the transmission and routing of Reciprocal Compensation traffic, translated LEC IntraLATA toll free service access code ... traffic, and IntraLATA Toll Traffic between their respective telephone exchange service customers, Tandem transit traffic and measured internet traffic, all in accordance with the terms of this attachment."

[5] These trunks were first established via Amendment 2 dated 10/24/00. There are three specific sections to refer to. First is 1a that stipulates that the parties shall establish these trunks "...for the delivery of traffic from Cavalier to Verizon and for the delivery of traffic from Verizon to Cavalier...". Second, Section 1a1 states "two way traffic exchange shall be from a Verizon End Office or tandem to a mutually agreed upon POI." Third, in Section 1a16 states "...two way traffic exchange trunks shall only carry Local traffic, IntraLATA toll traffic and Internet Traffic." There is no mention in this document of ANY transit traffic coming down these trunks. In Amendment 3 2.5.1 it states "As of the Effective Date, Verizon is delivering Reciprocal Compensation traffic, measured internet traffic and IntraLATA toll traffic to Cavalier at Cavalier's existing collocation arrangements located within certain Verizon End Office wire centers pursuant to the geographically relevant interconnection point provisions of the parties' prior interconnection agreement that became effective on of before January 1, 2002." Again, there is no mention of tandem transit traffic coming over these trunks not any mention of InterLATA traffic in the description of traffic types that should be passed over these trunks. Additionally, as reviewed in my testimony page 8-9, the costs for these trunks are shared between Cavalier and Verizon based upon the Percentage of Proportional Usage (PPU). The percentages of the two parties, Cavalier and Verizon, equal 100%. There are no other parties present in the calculation.

shared tandem facilities, Verizon is still compelled to separate the traffic along these same trunk group types.

Q. Does the Agreement give Verizon the option of mixing local and toll traffic over the same trunk group?

A. Yes.

Q. Does the Agreement ever give Verizon the option of passing Equal Access traffic down Direct Interconnection Trunks, or Verizon local traffic down Equal Access Trunks?

A. No, not under Cavalier's interpretation.

Q. Do you agree with Mr. Munsell that that the ICA, and in particular Attachment I Section 4, allows Verizon to mix traffic from any carrier down any trunk group to Cavalier?

A. No. This section does state that "[Cavalier] may choose to deliver both Local and toll traffic over the same trunk groups pursuant to the provisions of Attachment IV" and that "[Verizon] shall have the same options...." However, Mr. Munsell ignores the fact that Section 1.1 of Attachment IV specifically states that Attachment IV pertains to only to "traffic originating on each other's networks..." The blending of local and toll traffic is thus allowed only for traffic that Verizon originates, and not for tandem transit traffic.

Q. Do you agree with Mr. Munsell that Attachment IV § 1.1.6 of the ICA supports Verizon's argument?

A. No. Again, the reference states that "it is recognized by the parties that there is no technical requirement to segregate local and toll traffic from [Cavalier] to [Verizon], or from [Verizon] to [Cavalier] provided that the classification of the traffic can reliably be

identified by the parties in accordance with the terms of Section 7.5 herein." Again, this Attachment IV specifically applies only to traffic originating on one party's network (see Attachment IV 1.1) and is not relevant to tandem transit traffic that originates from third-party carriers.

Q. What is Cavalier's overall position with regard to blending of local and toll traffic discussed by Mr. Munsell in his rebuttal testimony?

A. Cavalier has no issue with Verizon-originated traffic being blended on the same trunk group, in compliance with the trunking hierarchy or architecture identified by Cavalier. However, Cavalier disagrees sharply with Verizon's assertion that this same allowance opens the door to pass third-party carriers' interLATA and transit traffic down the same trunk group as Verizon traffic. In fact, these traffic types are specifically addressed in the trunk group configuration and are expressly excluded in the allowances Verizon refers to in Mr. Munsell's testimony. It is Cavalier's interpretation that these types of traffic blending are not supported in the ICA and that Verizon's interpretation is overly broad and has no contractual support.

Q. Why do you claim that Verizon has failed to dispute certain invoices?

A. As identified in Cavalier's complaint, there are specific periods where Verizon has not supplied a formal dispute letter to Cavalier. In Exhibit "8" to my surrebuttal testimony, Cavalier has provided copies of all of the dispute letters that Cavalier received from Verizon. If Verizon claims that it generated any other such letters, Cavalier did not receive them, and no dispute is acknowledged until Cavalier receives actual, timely notice of the dispute. The mere fact that Verizon short paid an invoice does not create a valid dispute. Given that Cavalier has never received a dispute letter for the periods

specified in the attachment and in its complaint, it is Cavalier's assertion that Verizon is in no position to withhold payment to close out those balances.

Q. When Verizon does dispute a bill, does the Verizon dispute process conflict with Verizon's own testimony?

A. Yes, I believe so. Mr. Munsell claims in his statement that Verizon "...should pay for the traffic for which it is responsible."[6]. The key is that this is not the same argument that Verizon uses when disputing Cavalier's invoices. In the dispute process, Verizon simply assumes that it has accurately routed all traffic, recognized all MOUs, and provided complete, timely, and accurate EMI records. Verizon's dispute process therefore does not allow for any billing at all by Cavalier related to MOU inaccuracies, EMI issues, or traffic routing issues.

Thus, Mr. Munsell seems to acknowledge that Verizon becomes responsible for compensating Cavalier for the traffic, when Verizon fails to follow the requirements of the ICA. However, this description by Mr. Munsell conflicts with the logic underlying Verizon's billing disputes, as stated in Verizon's *ex parte* presentation to the FCC. Verizon's testimony and statements thus conflict with each other, and that uncertainty leaves Cavalier guessing blindly about which logic or argument Verizon will assert or follow in any given set of factual circumstances.

Q. Has Verizon made other assertions consistent with Mr Munsell's statement?

A. Yes. In conversations that I have had with Verizon representatives, Verizon's basic concept for billing was that Verizon would be billed for a volume of minutes (MOUs) equal to the difference between Cavalier's switch minutes and the MOUs on

[6] see Munsell Reply testimony page10 lines 12 –13

Verizon's EMI records. However, this stance changed to a more complicated and complex algorithm in Verizon's October 21, 2005 *ex parte* presentation to the FCC.

As seen in Exhibit "9" to my surrebuttal testimony, Verizon is asking Cavalier to bill Verizon for a derived portion of traffic and, most importantly, to make up the difference when Verizon fails to pass an EMI record to Cavalier. This results in Verizon being billed only for specific traffic and absolves Verizon of responsibility for non-delivered EMI records (other than trying to research problems when asked about them). Again, given the complexity of the current telecom environment and Verizon's own testimony in this case, Cavalier must rely on the EMI from Verizon as the only valid source of information to bill third-party traffic. How Mr. Munsell reaches his conclusions is thus beyond my understanding.

Q. Given Mr. Munsell's surrebuttal testimony, and the overall arguments advanced to date by Verizon, what conclusions has Cavalier reached?

A. In sum, Cavalier has reached the following conclusions:

- Cavalier has attempted to bill in the most efficient and accurate method available, given the environment in which we are working.
- Cavalier, like any other carrier, seeks to account for 100% of traffic terminated to our switch.
- Consistent with the ICA and Verizon's own testimony in this case, Verizon is to supply Cavalier with 100% of third-party traffic in the form of EMI records.
- Given issues with EMI data manipulation and call routing, Cavalier attempts to remove traffic from being associated with Verizon, by using Cavalier's own switch records to identify records billable to Verizon.
- Cavalier has billed Verizon for traffic and Verizon has not been able to support its dispute of those bills.
- Verizon has not been able to offer a consistent alternative solution to resolve the situation.
- Verizon has shown that it is not following the terms of the ICA
- Verizon's disputes are based on flawed Traffic Track data and dispute logic that is seriously flawed given the terms of the ICA.

- Cavalier has been left with unacknowledged shortfalls from Traffic Track, compounded by unacknowledged shortfalls on EMI for third-party billing, resulting in short payments from Verizon for records validly billed by Cavalier.

In short, the situation is a mess. That is why Cavalier seeks the Commission's assistance.

Cavalier believes that Verizon cannot arbitrarily decide what parts of the ICA to abide by, and thus impact Cavalier negatively in its ability to collect for traffic passing over Verizon's network and terminating on Cavalier's network. Verizon already has 100% control over third party billing by being the only source for records used to bill third parties. Verizon negatively impacts Cavalier's viability as a competitor by providing a shortfall of MOUs and a shortfall of EMI delivered, as shown in my testimony. Verizon also negatively impacts Cavalier's viability as a competitor by short paying invoices billed to Verizon based on faulty and flawed data. This action diminishes our ability to compete with Verizon.

The basic unfairness of this situation is illustrated by the fact that Verizon obtains 100% compensation for traffic passed over Verizon's own network. If that is the case, then why should Verizon be allowed to ignore its ICA with Cavalier and prohibit Cavalier from realizing the same 100% compensation for traffic terminated on Cavalier's network? (Further, why should Verizon challenge Cavalier's effort to charge for the same tandem transit services provided by Verizon, as Verizon is doing in a related case pending before the Commission?)

Verizon performs its billing based on the Trunk Group partner, and yet Cavalier must rely on the accuracy of Verizon's records—with no control reports or validation of Verizon's processes to prove the case—for Cavalier's own livelihood. The two parties are not on the same playing field, and this Commission should remedy that disparity.

Q. Does this conclude your testimony?

A. Yes.

Cynthia L. Randall
Assistant General Counsel

verizon

Verizon Pennsylvania Inc.
1717 Arch Street, Floor 10
Philadelphia, PA 19103

Tel: (215) 466-7146
Fax: (215) 563-2658
Cynthia.L.Randall@Verizon.com

June 12, 2007

ORIGINAL

VIA UPS OVERNIGHT DELIVERY
James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

RE: Cavalier Telephone Mid-Atlantic, LLC v. Verizon Pennsylvania Inc.
Docket No. C-20055343

Dear Secretary McNulty:

Enclosed for filing please find an original and three (3) copies of the Motion of Verizon to Strike Cavalier's Untimely Motion to Strike, and, In The Alternative, Opposition of Verizon to Cavalier's Motion to Strike, as well as a proposed order granting Verizon's Motion.

If you have any questions, please do not hesitate to contact me.

DOCUMENT FOLDER

Very truly yours,

Cynthia L. Randall /sdb

Cynthia L. Randall

RJP

RECEIVED

JUN 12 2007

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

CLR/slb
Enclosure

Via E-Mail and UPS Delivery
cc: The Honorable Wayne L. Weismandel
Attached Certificate of Service

83

CERTIFICATE OF SERVICE

I, Cynthia L. Randall, hereby certify that I have this day served a copy of the Motion of Verizon to Strike Cavalier's Umtimely Motion to Strike, and, In The Alternative, Opposition of Verizon to Cavalier's Motion To Strike, as well as the proposed order granting Verizon's Motion, upon the participants listed below in accordance with the requirements of 52 Pa. Code Section 1.54 (related to service by a participant) and 1.55 (related to service upon attorneys).

Dated at Philadelphia, Pennsylvania, this 12th day of June, 2007.

VIA E-MAIL and UPS DELIVERY

Renardo Hicks, Esquire
Stevens & Lee
17 North Second Street
16th Floor
Harrisburg, PA 17101

Sharon Glover, Esquire, Esquire
Cavalier Telephone Mid-Atlantic, LLC
2134 W. Laburnum Avenue
Richmond, VA 23227-4342

Stephen T. Perkins, Esquire
Cavalier Telephone Mid-Atlantic, LLC
1319 Ingleside Road
Norfolk, VA 23502-1914

Cynthia L. Randall
Assistant General Counsel
Verizon Pennsylvania Inc.
1717 Arch Street, Floor 10
Philadelphia, PA 19103
(215) 466-7146

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

CAVALIER TELEPHONE MID-ATLANTIC, LLC,

Complainant

v.

Docket No. C-20055343

VERIZON PENNSYLVANIA INC.,

Respondent

MOTION OF VERIZON TO STRIKE CAVALIER'S UNTIMELY MOTION TO STRIKE AND, IN THE ALTERNATIVE, OPPOSITION OF VERIZON TO CAVALIER'S MOTION TO STRIKE

Introduction and Summary

1. It would be one thing if Cavalier had made an isolated mistake and missed a single discovery deadline in this case. But that is not what happened. The clear and largely uncontested facts are that, in early 2006, Cavalier responded to Verizon's legitimate discovery requests with bad-faith, blanket objections. Cavalier even broke an agreement under which it committed voluntarily to respond to the requests as narrowed by Verizon. Then, Cavalier failed to supplement its responses by February 26, 2007, as the Administrative Law Judge directed. Finally, Cavalier failed to provide the required supplementation by May 18, 2007, also as directed by the Administrative Law Judge. Cavalier supplemented the 58 deficient responses only after Verizon, having given Cavalier a day's notice, actually filed its motion to dismiss. Cavalier's supplementation appears to be a hasty attempt to defeat the motion to dismiss, rather than a serious effort to comply. And Cavalier's motion to strike the motion to dismiss is untimely, as well as unfounded.

2. Cavalier has had more than a year and at least four separate chances to comply with the Commission's discovery requirements, and it has violated express voluntary commitments or Commission-imposed deadlines three times. Perhaps Cavalier's latest non-compliance was, as Cavalier puts it, "simpl[e] neglect[]." Mot. To Strike at 16. But in the context of Cavalier's studied non-compliance with discovery requirements in this proceeding – as well as the clear notice both parties received during the conference on April 18, 2007 – Cavalier's continued "neglect" provides ample grounds for dismissal of the complaint.

Argument

3. Cavalier contends that Verizon's motion to dismiss should be stricken for failure to comply with 52 Pa. Code § 5.103(b), which generally requires a movant to give "notice . . . that a responsive pleading shall be filed within 20 days." 52 Pa. Code § 5.103(b); *see* Mot. To Strike at 2. Cavalier is mistaken about the applicable rules. Section 5.103's requirements for written motions apply only "except as may be otherwise expressly provided in [chapter 5]." 52 Pa. Code § 5.103(a). A separate provision of chapter 5 supersedes the general requirements by establishing specific procedures governing motions for discovery sanctions. In particular – and as the Administrative Law Judge specifically explained to Cavalier's counsel in an e-mail dated April 5, 2007 – section 5.371 states that "[a] motion for sanctions may be answered within 5 days of service or, in the alternative, the motion may be answered orally at a hearing if a timely hearing has been scheduled within the same 5-day period." *Id.* § 5.371(b); *see* E-mail from ALJ Wayne Weismandel to Rick L. Hicks, *et al.*, Apr. 5, 2007 ("In accordance with the provisions of 52 Pa. Code Section 5.371(b), your answer to Verizon's Motion For Sanctions is due (in-hand) within 5 days of service of the Motion. Upon receipt of the answer, or expiration of the allotted time without an answer being provided, I will rule on Verizon's Motion.").

4. There is no notice requirement of the sort cited by Cavalier. Furthermore, the general notice requirement of section 5.103(b) cannot apply, because a response filed 20 days after service would be untimely. In fact, the sanctions motion would likely already have been decided, as section 5.371(c) states that such a motion "should be decided within 20 days of its presentation." *Id.* § 5.371(c).

5. Cavalier's confusion aside, the applicable five-day rule is dispositive. Verizon filed its motion to dismiss on June 1, 2007. The motion was served that same day on Cavalier electronically and by overnight service. *See* 52 Pa. Code § 1.56(a)(2), (4). Cavalier therefore had until June 6 (*i.e.*, five calendar days from the June 1 electronic and overnight service) to respond. *See* 52 Pa. Code §§ 1.12(a), 5.371(b). Cavalier filed its motion to strike (and answer) on June 11, 2007. Cavalier's response to Verizon's motion was therefore untimely under the five-day rule and should be stricken in its entirety. *See Application of Choice Cab Co.*, Dkt. No. A-00120055, 2004 WL 3120098 (Pa. P.U.C. July 27, 2004) (Opinion & Order) (complaint dismissed where complainant "did not timely respond" to motion for sanctions).

6. Although it was untimely, Cavalier's motion to strike does point out a formal defect in Verizon's motion to dismiss: Reading 52 Pa. Code § 1.31(a) together with 52 Pa. Code § 5.1(a)(6), the motion's paragraphs should have been numbered. If it is the Administrative Law Judge's preference, Verizon will re-file the motion with numbered paragraphs. Verizon, however, respectfully submits that because the numbering of paragraphs in its motion "does not affect the substantive rights of the parties," it should be disregarded under 52 Pa. Code § 1.2(a). Cavalier's suggestion that the lack of paragraph numbers "impair[ed] Cavalier's ability to file a responsive pleading" is transparently fabricated, particularly given that Cavalier filed a response of 17 pages to Verizon's 11-page motion.

ALTERNATIVE MOTION OF VERIZON FOR LEAVE TO FILE A RESPONSE TO CAVALIER'S ANSWER

7. Having no legitimate excuse for its failure to comply with multiple discovery deadlines, Cavalier casts stones at Verizon. Verizon's motion to dismiss, Cavalier says, is "cynical" and "deceitful." Mot. To Strike at 2. In light of Cavalier's mud-slinging, if Cavalier's untimely pleading is not stricken for the reasons given above, then Verizon respectfully requests that this motion be treated as (i) an opposition to the motion to strike and (ii) a motion for leave to file the following short reply to Cavalier's answer to the motion to dismiss.

Argument

8. Cavalier contends that "there was nothing willful" about its failure to meet the May 18 deadline. *Id.* at 2. Yet, assuming the truth of that statement, it is beside the point. Dismissal is an appropriate sanction where, as here, the complainant fails to respond to interrogatories despite an instruction from the presiding Administrative Law Judge to do so, *see Majkowski v. Columbia Gas of Pa., Inc.*, Dkt. No. F-01087321 (ALJ Jan. 15, 2003) (Initial Decision); where, as here, there was no "legitimate reason why timely answers to the Interrogatories were not filed," *Application of Majesty Co.*, Dkt. No. A-00115254F0001 Am-B, 2004 WL 1331320 (Pa. P.U.C. Mar. 11, 2004) (Opinion & Order); and where, as here, the complainant had been "reminde[d] that the answers to the Interrogatories were past due," *Application of Choice Cab Co., supra.* None of these decisions dismissing complaints required a demonstration of "willful" non-compliance by the complainant.

9. Furthermore, Cavalier did willfully fail to give straight answers to Verizon's discovery requests in February 2006, March 2006, and February 2007. Cavalier's prior attempts to evade discovery requirements put Cavalier in the position of being under an explicit threat of

sanctions, *see* Mot. To Dismiss at 3 (quoting April 18, 2007 transcript), and should be taken into account when considering Cavalier's subsequent failure to meet the final deadline.

10. Cavalier also argues that "Verizon has not been prejudiced in the least" by being denied discovery responses for more than a year. *See* Mot. To Strike at 2. But that argument, too, is wrong.

11. Cavalier contends primarily that the 58 interrogatories to which it did not respond were unimportant. *See id.* at 10-12. Outrageously, Cavalier says that, because Verizon designated a relatively small number of other requests as "most important" for purposes of preparing for the depositions it took in early May, *see id.* at 10 (quoting Verizon e-mail), the 58 requests that Cavalier did not answer must have been (in Cavalier's words) "not important," *id.* at 11. From this, Cavalier concludes that Verizon "lied" in seeking sanctions for prejudicial non-compliance. *Id.* Of course, relevant discovery requests do not become unimportant just because others are labeled "most important." As explained below, Cavalier's disregard for the 58 requests was prejudicial to Verizon.

Set 1, Requests 4, 5, and 32

12. These requests asked for detail concerning Cavalier's claims in this proceeding. *See* Mot. To Dismiss at 6-7. Cavalier now takes the position that the requests were immaterial and redundant because "all facts that Cavalier intends to rely upon have been set forth ad nauseum in this proceeding." Mot. To Strike at 12. If Cavalier had given a discovery response along those lines before Verizon took its depositions in May, it would have assisted Verizon's counsel in preparation for the depositions. It seems likely, though, that Cavalier's statement is false. Cavalier apparently intends to file supplemental testimony on July 13, 2007. *See id.* at 16. It is unclear what that testimony could say, if "all facts that Cavalier intends to rely upon have

been set forth" already. Apparently, Cavalier still has not fully answered Verizon's discovery requests.

Set 2, Requests 3 Through 9, 25, 143, and 152

13. Cavalier's principal argument with respect to these requests arises from the fact that, having received courtesy notice on May 31 of Verizon's intention to file the motion to dismiss, Cavalier was able to draft and send a bare-bones supplementation letter on June 1. *See* Mot. To Strike at 16 (acknowledging that supplementation was generated after Verizon notified Cavalier of "the deficiency"). Based on its post-motion delivery of a supplementation letter, Cavalier says that the "delay in receiving this information has in no way prejudiced Verizon." *Id.* at 14. This argument overlooks that Cavalier's June 1 supplemental responses are slapdash, just as one would expect given that they were cobbled together overnight.

14. For example, in Set 2, Request 25, Verizon sought information concerning calls that Cavalier sent to Verizon over a particular trunk group in Pennsylvania. At the April 18 discovery conference, the Administrative Law Judge stated that Cavalier would not have to conduct a new study to collect this information. *See* Mot. To Dismiss Exh. 10, Tr. at 174:5-176:2. He advised that "if the answer is, 'We don't have this information,' that will be a satisfactory answer." *Id.* at 175:24-25.

15. Cavalier gave a different reason for not responding substantively. Instead of saying "We don't have this information," Cavalier employee John Haraburda stated: "There is *limited* ability to get this data *in the short term* without undertaking a specialized traffic study." Mot. To Strike Exh. 4 (emphasis added). This seems to be an oblique way of saying that Cavalier could not assemble the requested information between May 31, when it began the supplementation project, and June 1, when it hurried its supplementation letter to Verizon. If

Cavalier had done something to answer Request 25 in the 13 months after Verizon served Request 25, or even in the six weeks after the April 18 discovery conference, it could have collected information that, although in its possession, was not readily at hand. Thus, Cavalier's disregard for the May 18 deadline substantively compromised its responses, causing prejudice to Verizon.

Set 2, Requests 87 Through 101 and 107 Through 136

16. Cavalier's supplemental responses to these requests were largely that Cavalier has never had a customer for the type of service at issue. That response highlights another form of prejudice suffered by Verizon, which should be redressed by dismissing the complaint. Cavalier could have provided exactly the same response long before it was faced with the motion to dismiss. Yet, to get the answer that Cavalier has no relevant customers, Verizon had to challenge the blanket objections Cavalier made on March 24, 2006, *see* Mot. To Dismiss Exh. 6; battle with Cavalier after the prehearing conference of February 8, 2007, *see* Mot. To Strike at 5-6 (backhandedly acknowledging Verizon's efforts to secure responses); and file two sanctions motions seeking supplemental responses, *see* Mot. To Dismiss at 2-3. In this effort, Verizon incurred substantial unnecessary expense and expended attorney and employee time that could have been used to prepare Verizon's case. Cavalier imposed these costs on Verizon by tactically withholding a material response it had right at hand.

17. Dismissal of the complaint is warranted as a penalty for this misconduct and to deter Cavalier and other parties from engaging in similarly abusive tactics in future Commission proceedings. Furthermore, Cavaliers' imposition of unnecessary costs on Verizon warrants the further sanction of requiring Cavalier to pay Verizon's reasonable attorneys' fees and costs in this action.

CONCLUSION

18. For the reasons stated above and in Verizon's motion to dismiss, Verizon respectfully requests that the Administrative Law Judge dismiss or deny Cavalier's untimely motion to strike and: (1) enter judgment in this matter against Cavalier and in favor of Verizon; (2) dismiss Cavalier's Complaint with prejudice; (3) award Verizon its reasonable attorneys' fees and costs; and (4) grant such other relief as is just and proper.

Respectfully submitted,

Cynthia L. Randall 6/8/07

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Of Counsel

Dated: June 12, 2007

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

CAVALIER TELEPHONE
MID-ATLANTIC, LLC,

Complainant **Docket No. C-20055343**

v.

VERIZON PENNSYLVANIA INC.,

Respondent

ORDER GRANTING MOTION OF VERIZON TO STRIKE
CAVALIER'S MOTION TO STRIKE

Upon consideration of Verizon's Motion to Strike Cavalier's Motion to Strike Verizon's Motion to Dismiss, it is this _____ day of June, 2007,

ORDERED that the Motion is hereby GRANTED; and it is further

ORDERED that, Cavalier having failed timely to respond to Verizon's Motion to Dismiss, the following sanctions are imposed pursuant to 52 Pa. Code §§ 5.371 and 5.372:

1. Judgment is entered against Complainant Cavalier Telephone Mid-Atlantic, LLC and in favor of Respondent Verizon Pennsylvania Inc.

2. The Complaint filed by Cavalier Telephone Mid-Atlantic, LLC is hereby dismissed with prejudice.

3. Verizon Pennsylvania Inc. is awarded its reasonable attorneys fees and costs incurred in defending against this Complaint.

_____
WAYNE L. WEISMANDEL
Administrative Law Judge

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June 13, 2007

ORIGINAL

VIA US MAIL
Secretary James J. McNulty
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg , PA 17120

Re: **Cavalier Telephone Mid-Atlantic, LLC v. Verizon Pennsylvania, Inc.**
Docket No. C-20055343

Dear Secretary McNulty:

Enclosed for filing please find an original plus three (3) copies of Cavalier Mid-Atlantic, LLC's Answer to Verizon's Motion to Strike Cavalier's Motion to Strike and Answer to the Motion to Dismiss as a Sanction for Cavalier's Failure to Provide Discovery Responses as Directed in the above captioned matter. Copies of the forgoing document have been served in accordance with the attached Certificate of Service.

If you have any questions, please feel free to contact me.

Very truly yours,

STEVENS & LEE

Michael A. Gruin

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MAG:
Encl.
cc: Administrative Law Judge Wayne Weismandel
Certificate of service

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

CAVALIER TELEPHONE
MID-ATLANTIC, LLC,

Complainant

v.

VERIZON PENNSYLVANIA INC.,

Respondent

Docket No. C-20055343

CAVALIER TELEPHONE MID-ATLANTIC'S ANSWER TO VERIZON'S MOTION TO STRIKE AND IN THE ALTERNATIVE , OPPOSITION OF VERIZON TO CAVALIER'S MOTION TO STRIKE AND ANSWER TO VERIZON'S MOTION TO DISMISS

And Now, comes the Complainant, Cavalier Telephone Mid-Atlantic, LLC ("Cavalier"), by and through its counsel, Stevens & Lee, and hereby Answers the "Motion to Strike and in the Alternative, Opposition of Verizon Pennsylvania Inc. (" Verizon") to Cavalier's Motion to Strike and Answer to Verizon's Motion to Dismiss.

ANSWER

1. On or about June 1, 2007, Verizon filed a pleading captioned "Motion to Dismiss as a Sanction For Failure to Provide Discovery Responses as Directed" ("Motion to Dismiss"). The first sentence of Verizon's Motion states: "Respondent Verizon Pennsylvania, Inc. ("Verizon") brings this **Motion to Dismiss** in response to the repeated and continued failure of Cavalier Telephone Mid-Atlantic, LLC ("Cavalier") to respond to Verizon's discovery requests as directed by the Administrative Law Judge". **(Emphasis added).**

2. On June 11, 2007 Cavalier filed its Motion to Strike and Answer to Verizon's Motion to Dismiss.

3. Cavalier's Motion to Strike and Answer were timely filed, because under the applicable Commission regulations, Motions to Dismiss require a response within 20 days, not 5 days as alleged by Verizon. 52 Pa. Code. § 5.103(c).

4. On or about June 12, 2007, Verizon filed a Motion to Strike Cavalier's Motion to Strike and Answer, or in the alternative, a Motion requesting leave to file a response to Cavalier's Answer.

5. Verizon is wrong when it alleges that its Motion to Dismiss should be treated as a Motion for Sanctions, which would trigger a 5 –day response period under the applicable Commission regulation (52 Pa. Code §5.371).

6. Verizon's categorizes its Motion, on its face, as a Motion to Dismiss, and therefore, the Commission's regulations pertaining to general Motions, not Motions for Sanctions, apply to Verizon's Motion.

7. Furthermore, Verizon's Motion to Dismiss seeks the relief of dismissal of a Complaint, which is not a relief authorized under the Commission's regulations pertaining to Motion's for Sanctions. See 52 Pa. Code §5.371 and § 5.372.

8. Verizon's Motion should not be considered a Motion for Sanctions when it is identified as a Motion to Dismiss on its face and when the relief sought (dismissal of a Complaint) is not authorized by the Commission's regulations pertaining to Motions for Sanctions.

9. Accordingly, Cavalier's Motion to Strike and Answer to Verizon's Motion to Dismiss is not untimely, and should be made part of the record in this matter.

10. Verizon should not be given the opportunity to file an additional response to Cavalier's Answer to the Motion to Dismiss, as requested by Verizon at page 4 of its "Alternative Motion for Leave to File Response to Cavalier's Answer". Verizon has already taken the opportunity to file a response to Cavalier's Motion to Strike and Answer, even though the Commission regulations do not permit a party to file a response to an Answer to a Motion to Dismiss. Verizon's June 12, 2007 pleading contains additional improper argument in support of its Motion to Dismiss, which is not authorized by the Commission's regulations. The additional argument included in Verizon's June 12, 2007 pleading goes well beyond the scope of Cavalier's narrow Motion to Strike. Verizon should not be given another opportunity to submit a response to Cavalier's Answer when it has already improperly filed a response to Cavalier's Answer.

11. Furthermore, Verizon's request for attorney's fee and costs should not be considered by the ALJ, because again, Verizon's additional argument in support of its Motion to Dismiss and in response to Cavalier's Answer should not be considered because it is not authorized by the Commission's regulations.

12. Furthermore, attorney's fees and costs are not warranted under the circumstances in this case, for the reasons set forth in Cavalier's Answer to the Motion to Dismiss.

For the all the reasons stated above, Cavalier respectfully requests that Verizon's Motion to Strike and Alternative Motion for Leave to file additional response and request for attorney's fees and costs be Denied.

Respectfully submitted,

Stevens & Lee

DATE: June 13, 2007

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FOR: Cavalier Telephone Mid-Atlantic LLC

CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of June, 2007 a copy of the foregoing Answer to Motion for Sanctions has been served upon the persons listed below in accordance with the requirements of 52 Pa Code Sections 1.54 and 1.55 of the Commission's rules.

VIA ELECTRONIC MAIL AND US MAIL

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Administrative Law Judge Wayne L. Weismandel
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DATE: June 12, 2007

Michael A. Gruin, Esq.