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January 24, 2003

VIA OVERNIGHT MAIL

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James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

**Re: Docket Nos. A-310696F7000 and A-310696F7001
Petition for Arbitration of DIECA Communications, Inc. d/b/a Covad
Communications Company with Verizon Pennsylvania Inc. and
Verizon North Inc. Pursuant to Section 252(b) of the Communications
Act of 1934**

Dear Mr. McNulty:

Please find enclosed an original and nine copies of the Reply Brief of Verizon Pennsylvania Inc. and Verizon North Inc. for filing in the above matter. Service of the Reply Brief has been made as indicated on the Certificate of Service. Please date stamp and return the extra copy of the brief in the enclosed, self-addressed stamped envelope.

If there are any questions regarding this matter, please contact me at (202) 326-7921.

Sincerely,



Aaron M. Panner

Enclosures

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU



BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

_____)
DIECA Communications, Inc. d/b/a Covad)
Communications Company Petition for Arbitration)
of Interconnection Rates, Terms and Conditions)
and Related Arrangements with Verizon)
Pennsylvania Inc. and Verizon North Inc. Pursuant)
to Section 252(b) of the Communications Act)
of 1934)
_____)

Case Nos. A-310696F7000,
A-310696F7001

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REPLY BRIEF OF VERIZON PENNSYLVANIA INC. AND VERIZON NORTH INC.

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

January 24, 2003

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

DIECA Communications, Inc. d/b/a Covad) Communications Company Petition for Arbitration) of Interconnection Rates, Terms and Conditions) and Related Arrangements with Verizon) Pennsylvania Inc. and Verizon North Inc. Pursuant) to Section 252(b) of the Communications Act) of 1934)	Case Nos. A-310696F7000, A-310696F7001
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REPLY BRIEF OF VERIZON PENNSYLVANIA INC. AND VERIZON NORTH INC.

Verizon Pennsylvania Inc. (“Verizon PA”) and Verizon North Inc. (“Verizon North”), collectively “Verizon,” by counsel and pursuant to the direction of the Administrative Law Judge (“ALJ”), submit this Reply Brief.

I. INTRODUCTION AND SUMMARY

The purpose of the opening briefs submitted in this proceeding was for each party to set forth legal argument and related facts in support of its proposed contract language, thereby allowing the parties and the ALJ to identify with specificity any disputed and relevant issues of fact. Covad Communications Company’s (“Covad”) Pre-Hearing Brief confirms that, despite its prior claims that extensive proceedings were required for the resolution of disputed issues of fact, there is no need for further factual development in this proceeding through discovery or formal hearings. With but a single exception, not appearing until page 141 of its voluminous brief, Covad’s Pre-Hearing Brief identifies no facts not already in its possession; even with respect to that one exception, where Covad claims to require discovery into Verizon’s practices with respect to dark fiber field surveys, Covad fails, as it does throughout its brief, to identify any disputed issues of fact relevant to the resolution of the issues addressed in this brief.

Instead of identifying relevant facts, Covad has littered its brief with irrelevant allegations and accusations; its filing is as insubstantial as it is bulky. Covad has used its filing as an opportunity to air a litany of stale complaints, the vast majority of which do not relate to Pennsylvania. These complaints simply have no relevance to the competing contractual provisions at issue before the Commission.

Moreover, Covad raises numerous issues that were neither discussed during the parties' negotiations nor included in Covad's petition for arbitration. Both the Telecommunications Act of 1996 ("1996 Act") and fundamental fairness prevent Covad from adding issues to the arbitration at this late date. *See* 47 U.S.C. § 252(b).¹ Covad should not be permitted at this late date to expand the scope of this proceeding.

Finally, Covad's complaints are ultimately beside the point. While Verizon does not concede any of the "facts" in Covad's brief that are not addressed specifically herein, this Commission does not, in any event, need to address Covad's scattershot grievances to resolve the open issues presented in these arbitrations. As Verizon demonstrates below, Covad has not shown that there are any disputed questions of fact that are relevant to the legal and policy issues raised here.

This is particularly true with respect to Covad's claims that it should not be bound by the same terms that apply to all other competitive local exchange carriers ("CLECs") in Pennsylvania because of its supposedly unique needs. As an initial matter, Verizon *has* — contrary to Covad's suggestion — customized its negotiating template to meet Covad's requests; indeed, Verizon has made changes to well over 100 subsections of that template. More

¹ Thus, the issues raised for the first time in the brief should not be considered at all — they are outside the scope of this section 252 arbitration. Although it should not be necessary to address these issues, if they are addressed in this proceeding, Verizon reserves the right to respond directly on these points.

fundamentally, Covad fails to justify its many demands for provisions that differ from the standard terms in Verizon's Commission-approved tariff or established through collaborative proceedings in which Covad was an active participant. Those standard terms *already* meet or exceed all of Verizon's legal obligations. Moreover, resolving such issues on an industry-wide basis where possible furthers the goal of nondiscrimination contained in federal 1996 Act and state law, eliminates unnecessary and duplicative effort for the Commission and carriers in arbitrations, and allows Verizon, as the entity that does business with all of the CLECs, to standardize its processes, promoting reliability and efficiency. And, even leaving aside these important points, Covad has failed to identify (let alone document) any extraordinary circumstances that would suggest that it deserves special treatment. To the contrary, its arguments could be adopted by nearly every, if not every, other CLEC operating in Pennsylvania.

II. ISSUE-BY-ISSUE ARGUMENT

In keeping with the format adopted by the parties and approved by the ALJ, Verizon does not address Covad's legal arguments. Instead, this reply explains why there is no disputed issue of fact relevant to the Commission's resolution of the open issues in this proceeding. Verizon respectfully suggests that, following the arbitration conference currently scheduled for February 19 and 20, the parties submit final briefs and reply briefs, in which they would respond to legal arguments already put forward and brief the remaining issues.

A. Billing Issues

Verizon demonstrated in its Opening Brief that the billing issues raised here either have been resolved against Covad as a matter of law or have been the subject of collaborative proceedings in Pennsylvania. Covad has presented no issues requiring further factual development, nor any justification for relitigating those matters here.

2. **Should the Parties have the unlimited right to assess previously unbilled charges for services rendered?**
9. **Should the anti-waiver provisions of the Agreement be implemented subject to the restriction that the Parties may not bill one another for services rendered more than one year prior to the current billing date?**

The four-year statute of limitations in 42 Pa. Cons. Stat. § 5525(8) governs the parties' right to assess previously unbilled charges for services rendered; no modification to the anti-waiver provisions of the agreement is necessary.

Verizon demonstrated in its Opening Brief that Pennsylvania law sets a four-year limit on the parties' right to assess previously unbilled charges for services rendered. *See* Verizon Br. at 5-6. Covad acknowledges the existence of state law, but suggests that the Commission should change that law in this bilateral arbitration, apparently for the benefit of Covad alone. *See* Covad Br. at 19. Although Covad asserts in general terms that it has needs that differ from those of other CLECs, *see id.* at 3, it makes no arguments related to backbilling that could not be raised by virtually any other CLEC in Pennsylvania, *see, e.g., id.* at 17-18. Covad's suggestion that Verizon might not abide by the representations that it makes before this Commission in these arbitrations (*see id.* at 28) is entirely without foundation and shows disrespect for the integrity of this Commission's processes.

Nor is there any disputed issue of fact to resolve. In particular, although Covad claims (at 16) to have experienced "significant problems with Verizon in regard to backbilling," its own allegations establish that the opposite is true. Covad identifies a *single* instance, involving Verizon's billing of line sharing, in which it received a bill for services rendered more than one year earlier. *See* Covad Br. at 16 & Exh. 2. Even in that case, as Verizon has already explained, the bill was primarily for services rendered within the one-year limitation period that Covad proposes here; the oldest charges on the bill were for services rendered 14 months earlier. *See*

Geller Decl. ¶ 6 (Exh. 4 to Verizon Opening Br.).² Presented with this very same allegation (which Verizon need not contest for present purposes), the Federal Communications Commission (“FCC”) “disagree[d] with Covad that Verizon’s back billing for line sharing charges denies it a meaningful opportunity to compete,” finding that “this problem is relatively unique” and “has been corrected.” *Virginia 271 Order*³ ¶ 50. The only other instance of backbilling by Verizon that Covad identifies pertains to work performed in December 2001 that was billed in February 2002. *See Covad Br.* at 22 & Exh. 3. This instance is irrelevant here, as the bill was issued *three months* after the work was performed.⁴

Finally, Covad never explains why a delay in *billing* makes it difficult for Covad to bill its own customers — indeed, Covad does not and cannot claim that it bills for service only after it has received all bills from its vendors. *See, e.g., id.* at 17. The only question here is when Verizon’s right to collect lawful rates for services actually rendered will be extinguished — *i.e.*, at what point Covad gets a windfall. That issue is governed by the statute of limitations set by Pennsylvania law.

² And, as Verizon has shown, the delay in that case was due, in part, to regulatory delays in the establishment of a rate for this service. *See Geller Decl.* ¶¶ 5-6. Thus, it is plainly not true, as Covad claims, that it is “completely under Verizon’s control to . . . backbill Covad in a timely manner.” *Covad Br.* at 20. Indeed, Covad never explains why Verizon would deliberately fail to bill charges that are due in a timely way. To the contrary, Verizon has every incentive to collect amounts owed to it as promptly as possible.

³ *Application by Verizon Virginia Inc., et al., for Authorization to Provide In-Region, InterLATA Services in Virginia*, Memorandum Opinion and Order, 17 FCC Rcd 21880 (2002) (“*Virginia 271 Order*”).

⁴ To the extent Covad raises this bill as part of its complaint about the manual processing of bills, *see Covad Br.* at 21-23, Verizon notes that this is not an open issue in this proceeding. Covad did not seek to negotiate language regarding the manual processing of bills and cannot seek arbitration with respect to that issue.

3. When a good faith billing dispute arises between the Parties, how should the claim be tracked and referenced?

Although Verizon has committed to provide Covad with the information that it seeks, the process for tracking billing claims is an operational matter that should not be specified on an interconnection-agreement-by-interconnection-agreement basis.

Covad's factual claims with respect to this issue are self-refuting. Although Covad asserts that it "does not have a way to relate [Verizon's claim] number back to the claim tracking number Covad originally assigned," it admits that it receives Verizon's claim number when Verizon acknowledges receipt of Covad's billing dispute. *See* Covad Br. at 29, 31. Therefore, by its own admission, Covad has a ready means to link its assigned claim number to Verizon's. Covad does not dispute that Verizon also includes Verizon's assigned number on the letter describing the resolution of the claim; that letter further informs Covad of any adjustment resulting from the claim and when that adjustment should appear on Covad's bill. *See* Geller Decl. ¶ 7. Thus, Covad also has a simple way to determine the basis for any credits that appear on its bills.⁵

Covad also asserts that "Verizon requires that CLECs assign their own tracking number to the dispute." Covad Br. at 29. This claim, even if it were correct, is irrelevant to the dispute here, because Covad's proposed language says nothing about whether the party that raises a billing dispute is obligated to provide a claim number.⁶ Finally, although Covad now describes

⁵ To the extent Covad complains about Verizon's use of Covad's claim number on Covad's bills, *see* Covad Br. at 30, Verizon notes that the parties have already agreed upon language that describes how one party is to notify the other in the event that a billing dispute is resolved in the billed party's favor. *See, e.g.,* Verizon Response Attach. A at 1-2. Accordingly, this is not an open issue in these arbitrations.

⁶ In any event, Covad offers no support for this assertion — the Evans/Clancy joint declaration (at ¶ 16) merely repeats the statement in the brief — which is not true. For example, although Verizon PA's billing claim submission form provides a space for CLECs to provide their own claim number, a CLEC-assigned claim number is not listed as information required to

its proposed language as “an interim solution” until Verizon’s WCIT system is fully implemented (Covad Br. at 32), Covad’s proposed language does not support this characterization. That language makes no mention of WCIT and would apparently remain in effect after WCIT is implemented. Indeed, this provision would apparently continue to bind the parties even if there were an industry consensus that an entirely different system of identifying billing disputes should be adopted. Covad’s proposed language should therefore be rejected.

4. When the Billing Party disputes a claim filed by the Billed Party, how much time should the Billing Party have to provide a position and explanation thereof to the Billed Party?

The standards that Covad proposes are unreasonable and contrary to the performance measurements that this Commission has adopted for Verizon PA; the agreements should state only that the parties are required to use commercially reasonable efforts to resolve billing disputes in a timely manner.

This Commission has already established the time frames in which Verizon PA must respond to billing claims. Covad offers no reason why this Commission should adopt Covad’s language on this issue in this proceeding when collaborative proceedings are currently underway to establish final language for the billing performance measurements that the Commission has adopted for Verizon PA. This is particularly true because Covad’s proposed language — as Covad concedes — is not consistent with the interim business rules for those performance measurements. *See* Covad Br. at 36.

Covad misstates the scope of those interim business rules, which currently include high-capacity-UNE and collocation bills, as do the final versions of these business rules in use in Rhode Island and other states. *See* Abesamis/Raynor Joint Decl. ¶ 15 & Attach. 1 (Exh. 1 to

be submitted for all billing claims. *See* http://www22.verizon.com/wholesale/attachments/handbooks/c1s8_5_26.xls (claim form); http://www22.verizon.com/wholesale/handbooks/section/0,,c-3-9-9_4,00.html (list).

Verizon Opening Br.). In any event, if Covad wants to alter the scope of these measurements, it should do so through the New York or Pennsylvania Carrier Working Group — in which Covad has been actively participating on these very issues. As Verizon has explained, the New York Carrier Working Group is currently considering final language for these measurements; once adopted by the New York Public Service Commission (“PSC”), that final language will be presented to this Commission for approval. *See id.* ¶ 16.

Notably, although Covad asserts that resolution of disputes “[v]ery often . . . extends well beyond the target 30-day window,” it identifies only a single billing claim in Pennsylvania, for \$83,000, that it asserts has been open since April 2001, but about which it provides no further information. Covad Br. at 33-34. Covad’s remaining allegations involve billing disputes throughout the other 13 former Bell Atlantic jurisdictions. *See id.* Covad also makes assertions about supposedly improper actions “in the Verizon West region,” that is, somewhere in the approximately 20 states where the incumbent local exchange carrier (“ILEC”) formerly known as GTE operates. *Id.* at 35.⁷ Covad does not identify in which of those jurisdictions these actions supposedly took place or at what time; notably, Covad does not claim that Verizon North (or Verizon PA, for that matter) took these actions in Pennsylvania.⁸ These allegations are thus at best tangential to the situation in Pennsylvania; they also provide no basis to support Covad’s claim that the Carrier Working Group’s resolution of this issue for Verizon PA is good enough for other CLECs, but not for Covad.

⁷ This assertion is repeated verbatim in the Evans/Clancy joint declaration (at ¶ 23); no further information is provided.

⁸ In fact, Covad makes no specific allegations about Verizon North’s conduct at all.

5. **When Verizon calculates the late payment charges due on disputed bills (where it ultimately prevails on the dispute), should it be permitted to assess the late payment charges for the amount of time exceeding thirty days that it took to provide Covad a substantive response to the dispute? Should Verizon be permitted to assess late fees on unpaid late fees?**

Consistent with this Commission's rules, when a Covad billing dispute is resolved in Verizon's favor, Covad should be required to pay late fees on its entire unpaid balance, for the duration that the balance is unpaid.

Covad's statement of its position on this issue — that "late payment charges should not be assessed on unpaid previously billed charges when the underlying charges are in dispute" — was not the subject of negotiations between the parties and differs from the contract language that Covad has proposed with respect to this issue. Covad Br. at 33. As Verizon explained in its Opening Brief, Covad proposed two additions to the relevant section of the parties' agreement — one that would prevent Verizon from collecting late-payment fees for any billing dispute not resolved within 30 days; another that would prevent late payment fees from compounding — both of which should be rejected as contrary to Pennsylvania law and sound policy. *See* Verizon Br. at 12-13.

The question whether late-payment charges should be suspended after Verizon acknowledges a dispute is therefore not an open issue in these arbitrations for this Commission to resolve. *See* Covad Br. at 38-39. In any event, Covad does not owe late-payment charges on disputed amounts if the dispute is resolved in its favor; it need not file separate disputes regarding those charges. *See* Geller Decl. ¶ 12.

B. Termination of the Agreement Following Sale of a Verizon Exchange

8. Should Verizon be permitted unilaterally to terminate this Agreement for any exchanges or territory that it sells to another party?

Under federal law, Verizon cannot be required to condition any sale of its operations on the purchaser agreeing to an assignment of the parties' agreement.

As with Issue 5, Covad's statement of its position on this issue — that Verizon "should not be permitted to terminate the agreement for exchanges or territory it sells to another party" — differs from the contract language that Covad has proposed. Covad Br. at 39. The only change that Covad proposed with respect to the language at issue here would permit Verizon to assign the agreement to a purchaser of an exchange or territory in Pennsylvania; both parties already have such authority under another, agreed-upon provision of the agreement, making this proposed change redundant. *See* Verizon Br. at 14 & n.15. If Covad seeks to prevent Verizon's obligations under the agreement from terminating after such a sale — at which point Verizon would not be an ILEC for that exchange or territory and would not be subject to the interconnection agreement obligations in the 1996 Act (Verizon Br. at 14) — it should be required to seek that result explicitly.

In addition, Covad is wrong in stating that "Verizon seeks to go much farther [here] than [Verizon New York] did in the AT&T case" before the New York PSC. Covad Br. at 44. In fact, as the New York PSC recognized, Verizon's position in that case was that "no rule of law requires Verizon to continue its interconnection obligations were it to sell the firm or cease to provide service"; nor can Verizon "be required to obligate a future transferee." *New York AT&T Order*⁹ at 24. This is the same position that both Verizon PA and Verizon North take here.

⁹ Order Resolving Arbitration Issues, *Joint Petition of AT&T Communications of New York, Inc., et al., Pursuant to Section 252(b) of the Telecommunications Act of 1996 for*

Finally, although Covad complains (at 40-41) that the language in the agreement provides for a minimum of 90 days notice of termination of the agreement following the sale of an exchange — which it asserts is not enough time to negotiate an agreement with the prospective buyer — Covad has not proposed any changes to that language.

C. Operations Support Systems

13. **In what interval should Verizon be required to return Firm Order Commitments to Covad for pre-qualified Local Service Requests submitted mechanically and for Local Service Requests submitted manually?**
38. **What should the interval be for Covad’s line sharing Local Service Requests? [Verizon North petition only]**

Covad’s proposals should be rejected because they are inconsistent with the intervals under which Verizon is currently required to return order confirmation notices and, in any event, because such requirements should not be established on an interconnection-agreement-by-interconnection-agreement basis.

These issues have been resolved on an industry-wide basis in Pennsylvania for both Verizon PA and Verizon North. *See* Verizon Br. at 15-17. Covad identifies no reason why it should be able to relitigate these issues here. A few points may benefit from clarification.

As an initial matter, Covad is wrong when it states that the “intervals [it] propose[s] . . . are identical to those set forth in this Commission’s current guidelines” for Verizon PA. Covad Br. at 46. In its brief, Covad claims that it has proposed a 72-hour interval for orders subject to manual pre-qualification, as well as a 48-hour interval for orders for UNE DS1 loops. *See id.* at 46-47. In fact, Covad’s proposed language states that, “[f]or stand-alone loops, Verizon [PA] shall return firm order commitments electronically within two (2) business hours after receiving an LSR that has been pre-qualified mechanically and within twenty-four (24) hours after

Arbitration to Establish an Interconnection Agreement with Verizon New York Inc., Case 01-C-0095 (N.Y. PSC July 30, 2001) (“New York AT&T Order”).

receiving an LSR that is subject to manual pre-qualification.” Covad Petition Attach. A at 6; *see id.* Attach. B at 5, 19. There is no mention of a separate interval for orders for UNE DS1 loops. Nor does Covad’s proposal contain a 95% on-time performance standard, limit application of the 2-hour interval to orders that flow through, or include any of the other business rules found in the separate sets of guidelines under which Verizon PA and Verizon North currently report their performance.

Even if Covad had proposed intervals identical to those in the guidelines — and even if Covad had also proposed including all of the business rules associated with those intervals — Covad’s position should be rejected. It provides no reason why it should not be subject to any changes to the intervals that might be adopted in the future by this Commission with respect to Verizon PA or by the FCC with respect to Verizon North. Covad simply asserts that the existing intervals — which, again, differ from what Covad has actually proposed here — “are of particular importance to Covad,” with no explanation as to why that is so, or why they are of less importance to other carriers. Covad Br. at 48.

Covad also makes reference in its discussion of this issue to Verizon being required to report its performance under any standards established in the parties’ agreements and, potentially, to pay liquidated damages for failing to meet those standards. *See id.* at 50 n.97, 51. There is no language in the agreements, nor has Covad proposed any, that would impose performance reporting requirements on Verizon. And, as Covad admits, it “has not proposed the inclusion of liquidated damages provisions in [either] Agreement.” *Id.* at 50 n.97. These issues, therefore, are not part of these arbitrations.

32. What terms, conditions and intervals should apply to Verizon's manual loop qualification process?

With respect to Verizon PA, Covad's proposals should be rejected because they are inconsistent with the performance measurements that this Commission has adopted and with Verizon's obligations to provide loop qualification information under federal law; Covad's proposals are generally inapplicable to Verizon North, which provides loop qualification information in a different manner from Verizon PA and does not have a manual loop qualification process.

As with Issue 13, discussed above, the interval in which Verizon PA should return manual loop qualification information has been resolved on an industry-wide basis — with this Commission adopting a standard of 95% within 48 hours. *See Verizon Br.* at 19. Covad identifies no reason why the Commission should establish a shorter interval in this bilateral proceeding, apparently for Covad's benefit alone, rather than through the multilateral processes the Commission has established. Covad also appears to be under the misimpression that the Extended Query transaction that Verizon PA offers is different from the manual loop qualification transaction. *See Covad Br.* at 52. In fact, these two transactions are the same — "Extended Query" is simply the name of the transaction when requested at the pre-ordering stage. *See Verizon Br.* at 19 n.16; *White Decl.* ¶ 9 (Exh. 6 to *Verizon Opening Br.*).

On this issue, as on many others, Covad's brief is silent as to Verizon North, which has no manual loop qualification process or Extended Query transaction. *See Verizon Br.* at 20; *White Decl.* ¶ 10.

D. Scope of Verizon's Obligation To Provide Nondiscriminatory Access to Unbundled Network Elements

The issues addressed here raise questions of law and policy that have been conclusively resolved against Covad by the FCC or this Commission. Covad identifies no facts requiring further development as to any of the issues discussed below; nor does it offer any justification for relitigating these matters in a bilateral arbitration.

19. **Should Verizon be obligated to provide Covad nondiscriminatory access to UNEs and UNE combinations consistent with Applicable Law?**
24. **Should Verizon relieve loop capacity constraints for Covad to the same extent as it does so for its own customers?**
25. **Should Verizon provision Covad DS-1 loops with associated electronics needed for such loops to work, if it does so for its own end users?**

Under federal law, Verizon is not required to build facilities in order to provision Covad's UNE orders, and Verizon PA's bona fide request process satisfies its obligations to permit CLECs to order new UNE combinations.

Covad's brief demonstrates that there is no dispute on the facts relevant to this issue — indeed, both Verizon and Covad have provided this Commission with the same document setting forth Verizon's practices for provisioning unbundled DS1 and DS3 loops. *See Bragg/Kelly Joint Decl. Attach. 1 (Exh. 2 to Verizon Opening Br.); Covad Br. Exh. 5.* Like Verizon, Covad presents a strictly *legal* argument in support of its purported right to require Verizon to build facilities in order to provision Covad's UNE orders. *See Covad Br. at 56-75.* Moreover, Covad provides no reason why its legal claims should be resolved in these arbitrations, when these precise issues are the subject of a proceeding currently underway before the FCC, in the *Triennial Review NPRM*,¹⁰ which is expected to conclude by February 20, 2003. Unlike this bilateral arbitration, that proceeding is designed to establish industry-wide rules on issues of industry-wide importance.

Covad discusses only briefly its proposed changes to § 16 of the UNE Attachment in its agreement with Verizon PA, which relate to the manner in which Covad can order new UNE combinations. *See Covad Br. at 73-75.* Verizon explained that the agreed-upon language of the

¹⁰ *See Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, Notice of Proposed Rulemaking*, 16 FCC Rcd 22781 (2001) ("*Triennial Review NPRM*").

agreement already includes a process for ordering new combinations that the FCC has found to satisfy the requirements of the Act. *See* Verizon Br. at 25. Covad suggests that it has “unique needs” that render the process in this process insufficient (Covad Br. at 74 (internal quotation marks omitted)), but fails to identify any way in which its situation differs from that of any other CLEC.

22. Should Verizon commit to an appointment window for installing loops and pay a penalty when it misses the window?

Verizon complies with federal law by offering the same appointment windows for CLEC and retail orders; Covad’s proposal is also inconsistent with the separate measurements under which Verizon PA and Verizon North report their performance.

Covad identifies no factual disputes relevant to this issue, where the legal question is whether Verizon provisions Covad loop orders “in substantially the same time and manner as it provisions orders for its own retail customers.” *Virginia 271 Order* App. C ¶ 37. Covad agrees that “Verizon provides morning [and] afternoon appointments for its retail operations.” Covad Br. at 76. Verizon also provides these four-hour appointment windows for CLECs’ orders, on the same first-come, first-served basis as retail appointments. *See* Bragg/Kelly Joint Decl. ¶¶ 11, 13. Covad never denies that such appointments are available to it on the same basis as they are available to Verizon’s retail customers; nor does it ever assert that Verizon provides its retail customers with the three-hour installation appointment windows that Covad seeks for itself here. Covad’s suggestion that it seeks to require Verizon to provide it only “with either a morning (‘AM’) or afternoon (‘PM’) appointment window,” Covad Br. at 76, is inconsistent with its proposed change to the agreement, which would require Verizon to provide “a three-hour appointment window” for all dispatch orders, *e.g.*, Covad Petition Attach. A at 11.

29. **Should Verizon maintain or repair loops it provides to Covad in accordance with minimum standards that are at least as stringent as either its own retail standards or those of the telecommunications industry in general?**

Under federal law, Verizon is required to maintain and repair loops that it provisions for CLECs in substantially the same time and manner as it maintains and repairs analogous retail loops.

Covad identifies no factual disputes relevant to this issue, where the legal question is whether Verizon's maintenance and repair standards for Covad's loops must be in parity with its retail standards, or whether Verizon must follow "industry standards" in the event that such standards are more stringent than Verizon's retail standards. *See* Covad Br. at 91-92.

Covad asserts that it "has experienced incidents in which Verizon evidently changed the underlying facility make-up of UNE Loops that had been provisioned by Covad." *Id.* at 94. Covad, however, provides no indication of what these incidents were, or when or where they occurred. The Evans/Clancy joint declaration (at ¶ 44) contains the same statement as Covad's brief, without any further support for this supposed fact. Indeed, Covad's entire argument is based on the unsubstantiated speculation that Verizon could, through its maintenance and repair activity, "unilaterally change the characteristics of a service, even to the point where the service no longer functions in accordance with industry standards, immediately after provisioning a loop." Covad Br. at 94; *see also id.* at 93 ("Verizon could maintain and repair a Covad loop at parity with a non-comparable Verizon service"). Covad does not point to even one specific instance in which it alleges that either Verizon PA or Verizon North has done this, or even anything like it.

Covad's claim that Verizon should "maintain and repair its facilities in a manner that is consistent with industry standards if Verizon does not offer a comparable advanced service" does no more to support its position. *Id.* at 95. As an initial matter, as Verizon has explained

elsewhere, to the extent that Covad is arguing that Verizon should be required to provide it with facilities superior in quality to what Verizon provides to itself, its claim is wrong as a legal matter. Moreover, Covad identifies no concrete instance justifying its supposed concern; nor does it identify any industry standard at issue. Finally, Covad's proposed language would apply even when Verizon PA or Verizon North provides identical, let alone comparable, facilities to its retail customers. Thus, Covad's argument does not provide a basis for its proposed language.

30. Should Verizon be obligated to cooperatively test loops it provides to Covad and what terms and conditions should apply to such testing?

The process by which Verizon and Covad test loops that Verizon provisions is an operational matter that should not be specified on an interconnection-agreement-by-interconnection-agreement basis with the level of detail that Covad proposes.

In its brief, Covad discusses at length a "refinement in the process" for cooperative loop testing, namely, Verizon's use of Covad's Interactive Voice Response Unit ("IVR"). Covad Br. at 99-101. Covad's proposed language, however, contains no mention of the IVR, nor was it raised in Covad's petition for arbitration or in the negotiations between the parties; accordingly, it is not properly part of these arbitrations. In any event, Verizon notes that Covad has not proposed to impose any obligations on itself with respect to "cooperative" testing; in its brief, Covad never once suggests that it would be obligated, for example, to ensure that its IVR is available for use by Verizon when Verizon provisions an xDSL-capable loop.

As with other issues in this proceeding, Covad provides no support for the "facts" that it does present. For example, Covad asserts that "many of the loops that Verizon provides to Covad are at an unacceptable level of quality" and that, "without [cooperative] testing, trouble tickets [on loops] are closed prematurely and . . . the trouble remains on the loop and another ticket needs to be opened." *Id.* at 101. These assertions are repeated verbatim in the Evans/Clancy joint declaration (at ¶ 48); no factual support is provided.

31. Should the Agreement obligate Verizon to ensure that Covad can locate the loops Verizon provisions?

To the extent Covad proposes to require Verizon to tag all loops that Verizon dispatches a technician to provision, that proposal is inefficient and unnecessary to ensure that Covad can locate those loops; with respect to loops that Verizon does not dispatch a technician to provision, FCC precedent requires Verizon to provide Covad with only the same information that Verizon has regarding loop locations.

As with other issues, Covad's statement of its position on this issue — that Verizon should be obligated to “(1) to inform Covad as to where it has provisioned a loop via sufficient information to allow Covad to locate the termination room, (2) ‘tag’ the loop or (3) provide information so that the circuit being provisioned can be located” — differs from the contract language that Covad has proposed. Covad Br. at 107. Instead, Covad's proposed language would require “the Verizon technician [to] tag a circuit” every time Verizon dispatches a technician. *E.g.*, Covad Petition Attach. A at 18. Covad's apparent recognition that, contrary to its proposed language, tagging should not always be required is consistent with Verizon's position. *See* White Decl. ¶ 12. In addition, Covad never asserts that the loop demarcation information Verizon currently provides is insufficient; nor does it ever assert that Verizon has additional or different information with respect to its retail customers' orders that is not provided to Covad with respect to its orders.

34. In what interval should Verizon provision loops?

Consistent with federal law, Verizon will provision loops in the interval that it provides to itself or the Commission-established interval.

Verizon demonstrated in its Opening Brief that, under federal law, Verizon must provision loops that CLECs order “in substantially the same time and manner as it provisions orders for its own retail customers.” *Virginia 271 Order App. C* ¶ 37. Covad has proposed no basis for adopting language in this bilateral arbitration that could have the effect of requiring

Verizon to provision Covad's loop orders in an interval shorter than that either applicable to analogous retail products or established by this Commission for all CLECs' loop orders. *See* Verizon Br. at 32-33 & n.27. Covad merely states its belief that its proposed intervals are "reasonable." Covad Br. at 55. Covad never suggests that Verizon is not meeting the legal standard established by the FCC or that Verizon's performance is denying Covad a meaningful opportunity to compete; to the contrary, Covad acknowledges that Verizon is provisioning Covad's loop orders either in substantially the same time and manner as it provides such loops to its retail customers or in accordance with any Commission-established intervals that apply to all CLECs.

Finally, Covad acknowledges that this Commission has already established the interval in which Verizon PA should provision line-shared loops; Covad simply "feels a shorter interval is warranted." *Id.* at 55-56. Although Covad thus acknowledges that it seeks to change this interval in a bilateral arbitration — outside of the multilateral processes that this Commission has adopted — it provides no support for its assertion that "this interval is crucial to Covad's operations" as opposed to those of any other CLEC; indeed, this claim is not even repeated, let alone defended, in the Evans/Clancy joint declaration. *Id.* at 56.¹¹

¹¹ Verizon notes that, although Covad states in the Evans/Clancy joint declaration (at ¶ 33) that it seeks to reduce the line-sharing interval to two days, Covad has proposed no language to that effect. *See* Verizon Br. at 33-34 & n.28. Covad (at 55) also mis-states the outcome of the New York PSC's proceedings with respect to the line-shared loop interval — the New York PSC initially established an interval of *four days* and parity with Verizon's advanced services affiliate ("VADI"), to be reduced to three days and parity with VADI by March 2001. *See* Opinion and Order Concerning Verizon's Wholesale Provision of DSL Capabilities, *Proceeding on Motion of the Commission to Examine Issues Concerning the Provision of Digital Subscriber Line Services*, Case 00-C-0127, Opinion No. 00-12, at 6-7 (N.Y. PSC Oct. 31, 2000). The order contains no mention of any further planned reductions to the interval. In fact, in October 2001, the New York PSC reaffirmed the three-day interval. *See* Order Modifying Existing and Establishing Additional Inter-Carrier Service Quality Guidelines, *Proceeding on*

37. Should Verizon be obligated to provide Line Partitioning (i.e., line sharing where the customer receives voice services from a reseller of Verizon's services)?

Under federal law, Verizon has no obligation to provide Covad with so-called "line partitioning" — *i.e.*, unbundled access to the high-frequency portion of the loop when a reseller provides voice service on that loop.

In its brief, Covad raises the same legal claims that the FCC expressly rejected in approving Verizon's section 271 application in Virginia, without acknowledging the FCC's order. *See Virginia 271 Order* ¶ 50. Covad does, however, assert that it "has lost tremendous volumes of orders" because of the FCC's rule, suggesting that "as many as 25% (?) [sic] of the requests" that it receives for DSL service in Pennsylvania could be provisioned through so-called line partitioning. Covad Br. at 111. Even if true — and Covad apparently has its doubts — such a claim would be irrelevant because Verizon has no legal obligation to engage in line partitioning. But Covad also provides no information to substantiate its vague claim.¹²

E. Advanced Services

The two issues addressed below pertain to Covad's offering of advanced services to its customers. With respect to both issues, Covad has identified no factual issues requiring further development here.

Motion of the Commission to Review Service Quality Standards for Telephone Companies, Case 97-C-0139, at 17-18 (N.Y. PSC Oct. 29, 2001).

¹² The Evans/Clancy joint declaration (at ¶ 52) states only that "as many as 25% of the requests for service that Covad is receiving in the state of New York" are "affect[ed]" by the fact that Verizon, consistent with its obligations under federal law, does not provide CLECs with unbundled access to the high-frequency portion of the loop where a reseller is providing voice service on the loop. That declaration provides no underlying detail for Covad's allegations with respect to New York, let alone the claim in its brief with respect to Pennsylvania.

23. What technical references should be used for the definition of the ISDN, ADSL and HDSL loops?

The agreement should reference Verizon's technical documents, as they define the characteristics of the loops in Verizon's network, which are the loops available to both CLEC and retail end-user customers.

As Verizon explained in its Opening Brief, although Verizon revises its technical documents to remain current with industry standards, it is ultimately Verizon's documents — and not the industry standards — that define the loops that Verizon provides its retail customers and makes available to CLECs on an unbundled basis. *See* Verizon Br. at 35. Although Covad asserts (at 83) that referencing both industry standards and Verizon's technical documents, as Verizon proposes, "creates the potential for conflicts between" the two, Covad does not identify a single instance in which it claims any such conflict has occurred. In any event, if Covad, or any other CLEC for that matter, believes that Verizon's technical documents conflict with industry standards, Verizon will research the area of "conflict" identified by the CLEC and, if necessary, will negotiate specific aspects of the Verizon technical documents to address areas of concern. *See* Clayton Decl. ¶ 4 (Exh. 3 to Verizon Opening Br.).

27. Should the Agreement make clear that Covad has the right, under Applicable Law, to deploy services that either (1) fall under any of the loop type categories enumerated in the Agreement (albeit not the one ordered) or (2) do not fall under any of the loop type categories?

Under federal law, Covad is obligated to inform Verizon of the advanced services that it deploys over UNE loops that it obtains from Verizon; Covad should use the bona fide request process set forth in the agreement to order new advanced services loop types.

In its brief, Covad presents only legal arguments and identifies no relevant disputed issues of fact. Verizon notes that, although Covad asserts that the use of Verizon's bona fide request ("BFR") process to order new loop types or technologies "is entirely unreasonable and burdensome," it offers no support for that claim. Covad Br. at 90. Indeed, the Evans/Clancy

joint declaration (at ¶ 40) only repeats that the use of the BFR process “is entirely unreasonable and burdensome.”

F. Dark Fiber

42. Should Verizon provide Covad access to unterminated dark fiber as a UNE? Should the dark fiber UNE include unlit fiber optic cable that has not yet been terminated on a fiber patch panel at a pre-existing Verizon Accessible Terminal?

Under federal law, Verizon’s obligation to provide dark fiber is limited to fiber that is physically connected to its facilities and that is easily called into service.

Covad does not dispute — because it cannot — that the FCC’s rules define dark fiber as a UNE only if it is both “physically connected to the incumbent’s network and is easily called into service.” Verizon Br. at 38. Instead, Covad’s simply asserts that Verizon might “deliberately leave dark fiber that has been pulled or lies just outside a central office or building unterminated in order to reduce the dark fiber inventory that is available to CLECs.” Covad Br. at 116-17. Covad does not suggest or point to any evidence that it is Verizon’s practice to do so; to the contrary, Verizon has explained that this is not its practice. *See* Shocket/White Decl. ¶¶ 14-20 (Exh. 5 to Verizon Opening Br.). Moreover, fiber that is not terminated on both ends is not available to fulfill either retail or CLEC orders. *See id.* ¶ 21.¹³

¹³ Covad misleadingly cites testimony from the Maine state section 271 proceeding to suggest that Verizon might reject a CLEC’s order for dark fiber where it would accept a retail order that would be provisioned using that same fiber. *See* Covad Br. at 116 & nn.298, 300. In fact, Verizon’s witness clearly testified that when fiber is not terminated on both ends “we can’t assign it to service orders for ourselves and we can’t assign it to service orders for CLECs.” *Inquiry Regarding the Entry of Verizon-Maine into the InterLATA Telephone Market Pursuant to Section 271 of the Telecommunications Act of 1996*, Docket No. 2000-849, Hearing Transcript at 260:10-12 (Me. PUC Jan. 29, 2002). When presented with claims, such as Covad’s here, that Verizon deliberately leaves fibers dangling near terminals to make them unavailable to CLECs, that witness testified that “I’ve never seen that happen.” *Id.* at 265:24.

Covad also suggests that Verizon's position here is inconsistent with Verizon PA's position in its arbitration with Yipes. *See* Covad Br. at 119-20. In fact, there is no inconsistency. In that proceeding, Verizon PA stated that its standard practice "when a fiber optic cable is run into a building or remote terminal" is to terminate "all fibers in that cable . . . on a Verizon accessible terminal in the building or remote terminal." Opinion and Order, *Petition of Yipes Transmission, Inc. for Arbitration Pursuant to Section 252(b) of Telecommunications Act of 1996 to Establish an Interconnection Agreement With Verizon Pennsylvania, Inc.*, Docket No. A-310964, at 8 (Pa. PUC entered Oct. 12, 2001) ("*Yipes Arbitration Order*"). Verizon has stated the same thing here. *See* Shocket/White Decl. ¶ 16. However, even when all of the fibers in a strand are terminated at a remote terminal or customer premises, some of the fibers in that strand may not spliced back to the central office and, therefore, are still under construction. *See id.*

43. **Should Covad be permitted to access dark fiber in any technically feasible configuration consistent with Applicable Law?**
45. **Should Verizon be obligated to offer Dark Fiber Loops that terminate in buildings other than central offices?**

While Verizon's proposed definitions of the dark fiber UNE track those the FCC has adopted, Covad's proposed changes to the definitions render those definitions both inconsistent with the FCC's regulations and confusing.

The parties' dispute here is a purely legal one over which of the competing proposals for the definitions of dark fiber accurately track the requirements of federal law. Verizon notes, however, that Covad misdescribes the *Virginia Arbitration Order*¹⁴ as a decision of the FCC. *See* Covad Br. at 121, 122. In fact, that decision was rendered by the FCC's Wireline

¹⁴ *Petition of WorldCom, Inc. Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia Inc., and for Expedited Arbitration*, Memorandum Opinion and Order, CC Docket Nos. 00-218, *et al.*, DA 02-1731 (Wireline Comp. Bur. rel. July 17, 2002) ("*Virginia Arbitration Order*").

Competition Bureau, a subdivision within the FCC, and not by the Commission itself. In addition, Verizon notes that, while Covad (at 121 n.315, 122 n.318) cites a number of instances where the Bureau adopted CLECs' proposed language permitting them to interconnect or access UNEs at any technically feasible point, Covad cites no instance where the Bureau did so with respect to dark fiber. In fact, the Bureau adopted Verizon's language with respect to dark fiber, which limited CLECs' access to "hard termination points" and rejected CLECs' claims that Verizon was obligated to provide access at other, supposedly technically feasible points.

Virginia Arbitration Order ¶ 451.

Covad also suggests that Verizon's proposed definition of dark fiber loops, which uses the term "Wire Center," excludes fiber "that terminates to a Central Office that is not a Wire Center location." Covad Br. at 130-31. Verizon, however, has already explained that the definition of a Verizon "Wire Center" in the agreement includes any Verizon premises that houses a switch and thus acts as a "Central Office." See Verizon Br. at 42 n.31. Thus, there is no merit to Covad's claim, which in any event is unsupported by any specific details, that it is "aware of Verizon locations that serve as central offices or . . . serve essentially as central offices but do [not] serve as Wire Centers." Covad Br. at 131.

Verizon's proposed language thus satisfies Covad's claim that the agreement should make clear that Covad has access to dark fiber loops "without regard to whether they terminate in a Wire Center or other buildings (that effectively perform the functions of a Central Office for the Dark Fiber Loop)." Covad Br. at 131-32. Covad's proposed language, however, does not square with its description of that proposal: Covad has proposed to add the phrase "or other Verizon premises in which Dark Fiber Loops terminate" without the qualification found in its brief that the "other Verizon premises" must be ones that "effectively perform the functions of a

Central Office for the Dark Fiber Loop.” *E.g.*, Covad Petition Attach. A at 24; Covad Br. at 129 (emphasis omitted).

44. **Should Verizon make available dark fiber that would require a cross connection between two strands of dark fiber in the same Verizon central office or splicing in order to provide a continuous dark fiber strand on a requested route? Should Covad be permitted to access dark fiber through intermediate central offices?**
46. **Should Covad be permitted to request that Verizon indicate the availability of dark fiber between any two points in a LATA without any regard to the number of dark fiber arrangements that must be spliced or cross connected together for Covad’s desired route?**

Under federal law, Verizon is not required to splice fiber strands at a CLEC’s request; however, Verizon will provide fiber optic cross-connects to join two terminated dark fiber IOF strands at intermediate central offices, subject to reasonable limitations.

Covad’s brief indicates that the parties have substantially resolved these two issues, based on the language that Verizon has proposed to Covad. *See* Covad Br. at 124; *see also* Verizon Br. at 44 n.32 (proposed language). The remaining disputes, as Covad identifies them, are with respect to (1) whether Verizon must “permit access to existing splice points and splice dark fiber on behalf of Covad, on a time and materials basis”; and (2) Verizon’s reservation of the right to limit the number of intermediate offices through which a dark fiber order may be routed. Covad Br. at 124.

With respect to the first issue, Covad’s proposed language does not square with its description of the issue. Covad’s proposed language does not state that Covad would pay for splicing of dark fiber on a time and materials (or any other) basis, nor does it make reference to Verizon providing access to existing splice points. *Compare, e.g.*, Covad Petition Attach. A at 25, 28. Moreover, the parties’ agreed-upon language already resolves the question of access at splice points, stating that “Covad may not access a Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF at . . . a splice point or case” and that “Verizon will not introduce additional

splice points or open existing splice points or cases to accommodate Covad’s request.” *Id.* at 27. Finally, Verizon notes that, although Covad implies that this Commission adopted its position in the *Yipes Arbitration Order*, it ultimately acknowledges that this Commission has not done so. *Compare* Covad Br. at 124-25 *with id.* at 129.

With respect to the second issue, Verizon has explained that its proposed reservation of the right to limit the number of intermediate central offices is necessary in the event that, for example, a request for dark fiber between two points 20 miles apart could only be provided on an indirect route that was 100 miles in length. *See* Shocket/White Joint Decl. ¶ 28; *see also id.* ¶ 27. Provisioning such an order in this indirect manner would be an inefficient use of scarce fiber resources. In the rare event that Verizon invokes this limitation, Covad will retain its rights under the dispute resolution provisions of the agreement to challenge Verizon’s determination. *See id.* ¶ 29.

- 47. **Should Verizon provide Covad detailed dark fiber inventory information?**
- 48. **Should Verizon’s responses to field surveys requests provide critical information about the dark fiber in question that would allow Covad a meaningful opportunity to use it?**

Under federal law, Verizon is required to, and does, provide Covad with only that dark fiber information it actually possesses; the language Covad has proposed requests information that Verizon does not (and, likely, cannot) possess.

Covad and Verizon agree that, under federal law, Verizon is not required to provide Covad with dark fiber information that it does not possess. *See* Covad Br. at 136. Because Verizon does not possess the information that Covad requests here, it cannot be required to provide it.

As with other issues, Covad’s statement of its position on Issue 47 — that Verizon should be required to provide Covad with “fiber transport maps, TIRKS data, field survey test data,

baseline fiber test data from engineering records or inventory management, and . . . all other available data regarding the location, availability and characteristics of dark fiber” — differs from the contract language that Covad has actually proposed. *Id.* at 134. Instead, Covad’s proposed language was limited to requiring Verizon to “provide maps of routes that contain available Dark Fiber IOF by LATA for the cost of reproduction.” *E.g.*, Covad Petition Attach. A at 28. Verizon explained in its Opening Brief that it does not possess such maps and cannot provide them in any meaningful form. *See* Verizon Br. at 45-46. Covad did not raise the additional issues presented in its statement of position during its negotiations with Verizon and should not be permitted to expand the scope of the arbitration.¹⁵ In any event, Covad offers no support for its assertion that it is Verizon’s “standard practice” to withhold from CLECs dark fiber information from these other sources; indeed, this claim is not even repeated, let alone supported, in the Evans/Clancy joint declaration.¹⁶

With respect to Issue 48, Covad’s description of its proposal — that, “[t]o the extent Verizon does perform field tests on fiber optic facilities and gathers certain information about the

¹⁵ The same is true with respect to Covad’s claim, raised for the first time in its brief, that this Commission should adopt dark fiber requirements similar to those imposed by the New Hampshire, New Jersey, Maine, and Texas state commissions. *See* Covad Br. at 137-40. Verizon notes, however, that the FCC has already found that the requirements adopted by the state commissions in Verizon’s region — which were reached in generic proceedings, not in bilateral arbitrations — go beyond the requirements of the 1996 Act. *See, e.g., Application by Verizon New England Inc., et al., for Authorization To Provide In-Region, InterLATA Services in Vermont*, Memorandum Opinion and Order, 17 FCC Rcd 7625, ¶ 57 (2002).

¹⁶ Covad also claims (at 137) that, during the Virginia state section 271 proceeding, Verizon offered to provide “dark fiber maps” but “later rescinded this offer.” Covad provides no specifics to support this allegation; as with other of Covad’s “facts,” the Evans/Clancy joint declaration (at ¶ 68) simply repeats the statement in the brief, without further explanation. Verizon, however, believes that Covad is referring to the wire center fiber maps that Verizon makes available. *See* Shocket/White Decl. ¶ 32. Those maps, however, are not “dark fiber maps” — they show the location of fiber routes on Verizon’s network and, thus, where dark fiber might be available. *See id.* Nor is Verizon aware of any testimony during the Virginia state section 271 proceeding — notably, Covad does not specify when this supposed offer was made — in which Verizon stated it that has dark fiber maps of the type Covad is requesting in Issue 47.

facilities for itself . . . , Verizon should treat Covad at parity and provide Covad with th[at] information” — is also inconsistent with the language that it has actually proposed. Covad Br. at 146. As Verizon explained in its Opening Brief, and as Covad (at 140) acknowledges, it has proposed that Verizon provide it with three specific pieces of information in response to Covad’s field survey requests, irrespective of whether this is information that Verizon gathers during field surveys that it conducts for itself. *See* Verizon Br. at 47-48 & n.34. In fact, Verizon does not track this information for itself, nor does it know at this time whether it even has the capability of providing the specific information that Covad seeks. *See* Shocket/White Joint Decl. ¶ 32.

Issue 48 presents the sole instance in which Covad has identified a fact that it claims that it would seek to prove through discovery, asserting that it “is confident that it can prove that” Verizon’s “field technicians likely customize the[ir field] testing based on the instructions provided to them by Verizon’s network engineers.” Covad Br. at 141. Even if this were true, it would be irrelevant to the question that Covad has presented with respect to the language that it has actually proposed here. As described above, that language would require Verizon to provide Covad with three specific pieces of information no matter whether Verizon’s field technicians are instructed by Verizon’s network engineers to provide this particular information. Verizon has repeatedly stated that it does not — and does not know if it can — track the specific information that Covad requests. *See* Verizon Response Attach. C at 28; *id.* Attach. D at 29; Shocket/White Joint Decl. ¶ 32. Covad never disputes Verizon’s claim; nor does it suggest that, through discovery, it could demonstrate that Verizon’s claim is untrue.

49. Should Verizon be permitted to refuse to lease up to a maximum of 25% of the dark fiber in any given segment of Verizon's network?

Verizon's proposal is an anti-warehousing measure that does not constrain Covad's ability to use dark fiber and that the FCC has specifically found to be reasonable.

Covad presents no questions of fact with respect to this issue. Notably, Covad does not claim that it has ever sought to order as dark fiber more than 25% of the total fiber in a cable. See Shocket/White Joint Decl. ¶ 35. Covad also does not claim that Verizon's proposed language would place any limits at all on the services that Covad could provide to its customers. See *id.* ¶ 34.

G. Other Issues — Pricing and Collocation

With respect to these final three issues, as with the issues discussed above, Covad has identified no factual issues requiring further development in this proceeding.

**38/
39.¹⁷ What interval should apply to collocation augmentations where a new splitter is to be installed?**

Collocation augment intervals should be established through Verizon's generally applicable tariff, and Covad should not be permitted to insulate itself from changes to that tariff that apply to all other CLECs.

As with other issues, Covad's description of its position on this issue — that Covad “seeks a forty-five day (45) interval for collocation augmentations where new splitters are to be installed” — differs from the contract language that Covad has proposed. Covad Br. at 114. In fact, Covad's proposed language does not specify what the interval should be for such augmentations; instead, Covad proposes only that an interval of “no greater than forty-five (45) business days” shall apply. *E.g.*, Covad Petition Attach. B at 20. As Verizon explained, the

¹⁷ This issue is numbered 38 in Covad's Verizon PA petition and 39 in Covad's Verizon North petition. Although Covad refers to it as Issue 39, another issue (pertaining to testing of line-shared loops) is numbered 39 in Covad's Verizon PA petition; a nearly identical issue is also numbered 40 in Covad's Verizon North petition. Briefing of issue 39/40 has been deferred to the parties' post-hearing briefs.

apparent effect of Covad’s language would be to permit it to take advantage of future tariff amendments that reduce the applicable interval, but to insulate it from amendments that increase the interval. *See Verizon Br.* at 51.

Second, Covad states that it seeks here “the terms Verizon has offered” to Covad and other CLECs in “broader negotiation[s]” — which are confidential and are not properly raised as part of this proceeding — regarding collocation intervals throughout the entire Verizon footprint. *See Covad Br.* at 115. This is not true. First, as explained above, Covad is not seeking a 45-day interval; but rather an interval of “no greater than” 45 days. Second, Covad has not proposed to include in the agreements the other, related terms and conditions that are an integral part of the offered 45-day interval. Such related terms and conditions are also contained in Verizon New York’s collocation tariff and apply to Covad’s collocation augment orders in New York, where Covad has not sought to arbitrate this issue in its ongoing arbitration with Verizon New York.

53. Should Verizon provide notice of tariff revisions and rate changes to Covad?

Covad should not be permitted to impose on Verizon the costs of determining which Verizon tariff filings might be relevant to Covad.

Covad does not dispute that it currently receives notice of changes to Verizon’s tariff. *See Covad Br.* at 150-51. Instead, Covad claims only that the notice that it receives is not “sufficient.” *Id.* at 150. But Covad provides no support for this claim. Although Covad’s brief states that the supposed insufficiency of the notice that it receives is “indicated in the attached affidavits,” *id.*, the Evans/Clancy joint declaration (at ¶ 54) states only that Covad “does not receive sufficient notice.” The same is true of Covad’s claim that it “expends tremendous resources monitoring Verizon’s tariff activity.” *Covad Br.* at 151; Evans/Clancy Joint Decl. ¶ 54. Even if true, however, these claims would be irrelevant, because their premise is that the tariff process is inadequate to protect Covad’s interests, a claim that the New York PSC has

rejected. *See New York AT&T Order* at 4-6. This premise is particularly inapplicable here, as Covad has been instrumental in negotiating and litigating the terms of the Pennsylvania collocation tariff.

Finally, Verizon notes that Covad's proposed language would require Verizon to prepare an informational update to Appendix A within 30 days *after* a tariff change becomes effective. *See, e.g., Covad Petition Attach. A* at 31. Accordingly, Covad's suggestion that the update that it requests could enable it to determine whether it wants to challenge a Verizon tariff filing before it becomes effective is incorrect. *See Covad Br.* at 152.

56. Should the Agreement specify the minimum amount of DC power and additional power increments Covad may order? [Verizon PA petition only]

The terms and conditions for purchasing DC power for collocation arrangements should be established through Verizon's generally applicable tariff, and Covad should not be permitted to insulate itself from changes to that tariff that apply to all other CLECs.

Covad does not dispute that Verizon's currently effective collocation tariff contains no language that prohibits Covad from purchasing DC power in the amounts and increments that it states it desires, in order to support the equipment necessary for interconnection or access to unbundled network elements. *See Covad Br.* at 155-56. In addition, despite its claims (at 156) that it has "unique needs" with respect to the power provided to its collocation arrangements, Covad does not identify any respect in which its needs differ from those of other CLECs in Pennsylvania, which obtain collocation under the terms and conditions in Verizon's generally applicable tariff, as amended from time to time.

Covad, however, claims that Verizon could prohibit Covad from ordering power in the amounts and increments that it seeks simply by sending out an industry letter, and claims that Verizon has done so in the past. *See id.* at 156. Verizon cannot amend the terms of its tariff

through an industry letter and is not aware of the industry letter to which Covad refers — indeed, Covad does not attach this letter, let alone provide its date, subject, or other identifying information. *See id.*; Evans/Clancy Joint Decl. ¶ 63.

III. CONCLUSION

For the foregoing reasons, further factual development is not necessary to resolve the open issues in these arbitration proceedings, which, for these reasons and those stated in Verizon's Opening Brief, should be resolved in Verizon's favor.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I, Scott Angstreich, hereby certify that I have this day served a true copy of the Reply Brief of Verizon Pennsylvania Inc. and Verizon North Inc., upon the participants listed on the attached Service List, as indicated, 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 Washington, D.C., this 24th of January, 2003.

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

DIECA Communications, Inc. d/b/a Covad)
Communications Company Petition for Arbitration)
of Interconnection Rates, Terms and Conditions)
and Related Arrangements with Verizon)
Pennsylvania Inc. and Verizon North Inc. Pursuant)
to Section 252(b) of the Communications Act)
of 1934)

Case Nos. A-310696F7000,
A-310696F7001

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APPENDIX TO
REPLY BRIEF OF VERIZON PENNSYLVANIA INC. AND VERIZON NORTH INC.

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STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

OPINION NO. 00-12

CASE 00-C-0127 - Proceeding on Motion of the Commission to
Examine Issues Concerning the Provision of
Digital Subscriber Line Services

OPINION AND ORDER CONCERNING
VERIZON'S WHOLESALE
PROVISION OF DSL CAPABILITIES

Issued and Effective: October 31, 2000

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CASE 00-C-0127 - Proceeding on Motion of the Commission to
Examine Issues Concerning the Provision of
Digital Subscriber Line Services

OPINION NO. 00-12

OPINION AND ORDER CONCERNING
VERIZON'S WHOLESALE
PROVISION OF DSL CAPABILITIES

(Issued and Effective October 31, 2000)

BY THE COMMISSION:

INTRODUCTION

The issues before us concern obligations of Verizon New York, Inc. f/k/a New York Telephone Company (Verizon) to open its network further to facilitate the provision of high-speed data services over its telephone lines by competitors. The Digital Subscriber Line (DSL) collaborative, commenced in New York in August 1999, has been negotiating and resolving numerous operational issues concerning the provision to New Yorkers of high-speed data services, and the entry into the New York market of new competitive providers of these services. We

instituted this litigation track to consider those issues that have eluded collaborative resolution.¹

These issues arise from a market that has the rudiments of business rules, tariffs, and interconnection agreements allowing New Yorkers access to DSL services from a range of providers. However, Verizon still maintains a virtual monopoly over the last mile--the copper loops into the premises of the retail customers. The competitive providers of voice and data services challenge Verizon's provision of a range of wholesale services they need to serve their customers. The challenges concern timeliness in putting competitors' facilities into operation, line splitting for voice competitors providing service using the unbundled network element platform (UNE-P), and affording competitors access to customers served by digital loop carrier technology. Consistent with our ongoing policies aimed at ensuring a competitive market for all telecommunications services for New Yorkers, our concern is to ensure that Verizon continues to employ its local network in such a way as to maximize customers' access to new services and to competitive choices.

This phase of this proceeding was initiated by notice consolidating issues raised by parties in various venues for full factual examination in a technical conference, and for resolution by the Commission based on the record of that conference, the relevant comments filed by the parties in the

¹ Based on a combination of collaboration and Commission action, parties in this proceeding have resolved the preliminary issues allowing provision of DSL in New York: methods for cooperative testing and provisioning of stand-alone DSL-capable loops, certain standards and measures of performance, and line sharing for customers that enjoy voice service from Verizon but seek data service from a competitor.

related proceedings, and parties' briefs.¹ Some of the issues consolidated here for consideration had been raised in comments in the proceeding concerning the transfer of assets from Verizon to its data subsidiary, VAD;² on the Verizon line sharing tariff;³ and on the May 2000 Verizon filing of further revisions to its No. 914 and No. 916 tariffs to comply with the FCC UNE Remand Order.⁴

The parties conducted discovery, filed initial and rebuttal testimony, and participated in an on-the-record technical conference held in July 2000. A stenographic transcript of 489 pages was compiled, and initial and reply briefs were filed by Verizon, AT&T, WorldCom, Covad, Rhythms, the Attorney General, Sprint, and the Association of Communications Enterprises (Ascent). Although other parties questioned witnesses, factual evidence was presented by Verizon, VAD (Verizon's data affiliate), by DSL providers—Covad and Rhythms—and by competitive local exchange (voice) providers AT&T and WorldCom.

¹ Notice of Consolidation of Issues (issued June 21, 2000).

² Case 00-C-0725, Petition of Bell Atlantic-New York for Approval of the Transfer of Certain Assets Associated with Advanced services to Bell Atlantic-Network Data, Inc. (Asset Transfer Proceeding).

³ Case 99-C-1806.

⁴ Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, (rel. November 5, 1999) (UNE Remand Order).

OPERATIONAL ISSUES CONCERNING
THE VERIZON CENTRAL OFFICE PROVISION
OF DSL-RELATED CAPABILITIES

Intervals

Several issues relate to the provision of DSL service to customers served by copper loops that run from the Verizon central office to the customer premises. To provide line sharing service, Verizon's affiliate or a competitor data carrier must have installed collocated equipment in the Verizon central office, including a splitter¹ and a DSLAM.² The competitors challenge how long Verizon takes to complete certain work on their behalf.

1. The Provisioning Interval

The first issue is to what time period Verizon is entitled to accomplish the central office work necessary for line sharing for a competitive data carrier's customer. The provisioning interval is the time Verizon may take to complete a customer order for line-shared DSL service and make the line sharing available on the customer's loop. Verizon currently offers a six-day provisioning interval, not including the time required for loop qualification. This interval includes one day to process the order, two days for dispatch, one day for assignment of facilities, one day to test the service, and one day to turn over the circuit to the data CLEC. Verizon asserts

¹ A splitter is an electronic filtering device that separates an analog transmission signal in a copper loop facility into high (data) and low (voice) frequency signals.

² A DSLAM (digital subscriber line access multiplexer) is a powered electronic device that, using multiplexing technology, combines multiple DSL signals and transmits them in a single broadband channel over a high-speed packet switched network.

this interval is necessary, even to provision line sharing, to deploy its workforce reliably and efficiently.

Covad and Rhythms suggest a much shorter interval based upon the actual work required to complete the provisioning. Covad and Rhythms reason that since most provisioning entails no dispatch, except to Verizon's own central offices, and the work is neither complicated nor time-consuming, Verizon can actually complete the provisioning work for a line sharing arrangement in one day. Nevertheless, Covad and Rhythms propose provisioning intervals of three days, decreasing to two days and one day after three-month intervals.

WorldCom supports Covad and Rhythms in the need for shorter intervals, but urges a two-day interval consistent with Verizon's Product Interval Guide for UNE-P voice migrations which do not involve dispatch, and WorldCom's interconnection agreement with Verizon which establishes a two-day interval for business POTS orders with no dispatch.

The Attorney General urges the Commission to adopt reasonable intervals, which are not represented by either Verizon (too long) or Covad/Rhythms (unrealistically short). The Attorney General supports, at most, a five day interval until Verizon's OSS automation is completed, when the interval can be shortened.

Verizon offers one interval to accommodate all DSL orders, regardless of the operational differences line sharing entails. In a line sharing arrangement voice service, and therefore dial tone, is present and outside plant dispatch is required less often than for stand-alone DSL. Verizon need only dispatch within its own central office. In these instances the total work required of Verizon, once the local service request is processed, is to assign a frame technician and perform the cross connections to the data CLEC collocation arrangement.

This work, Rhythms and Covad testified, should take minutes, not days.

Verizon acknowledged on the record that the interval could be reduced to five days for all loops. Verizon's monthly reports for inter-carrier service quality performance demonstrate that the non-dispatch intervals have begun to decrease with provisioning experience.¹

The FCC urges states to adopt line sharing provisioning intervals "based on" the time it takes to provision stand-alone loops.² But, "states are free to adopt more accurate provisioning standards for the high frequency portion of the loops"³ Consistent with this suggestion the line sharing provisioning interval will be reduced from six days.

Recent Verizon performance data on intervals for provisioning DSL to line-shared loops for Verizon's retail customers demonstrate a downward trend. These data and the record support an interval which is the lesser of four days or parity with that achieved by VAD. These intervals will become effective immediately. We expect Verizon to improve performance

¹ Cases 97-C-0139 - Proceeding on Motion of the Commission to Review Service Quality Standards for Telephone Companies and 99-C-0949 and 97-C-0271 - Petition Filed by Bell-Atlantic-New York for Approval of a Performance Assurance Plan and Change Control Assurance Plan. Carrier to Carrier Performance Standards Reports for May, June and July 2000.

² Deployment of Wireline Services Offering Advanced Services Telecommunications Capability, CC Docket No. 98-147 et al., Order on Reconsideration and Second Further Notice of Proposed Rulemaking in CC Docket No. 98-147 and Fifth Further Notice of Proposed Rulemaking in CC Docket No. 96-98 (released August 10, 2000) (Advanced Services and Collocation Remand Order), ¶174.

³ Id., ¶175.

in the near term and to decrease the required interval to the lesser of parity with VAD or three days by March 2001.

2. The Cable and Splitter Capacity Intervals

Other interval issues concern the time Verizon takes for augmenting the cabling and splitter capacity between Verizon's main distribution frame and the competitor's collocation arrangement.

The provisioning intervals for augment cable and splitter capacity reflect how long Verizon may take to add additional cabling between a CLEC's cage and Verizon's Main Distributing Frame (MDF) and to install additional splitters, respectively. These are additional installations (augments) to existing collocation arrangements and could include: (a) adding cable, (b) adding cable or splitter, or (c) adding a splitter. Verizon currently offers the same 76 business-day interval for all augments and the initial construction and installation of the collocation arrangement. Verizon claims it needs 76 business days for augments to complete the site survey, engineering review, vendor selection and coordination, and sign-off with the CLEC.

Covad and Rhythms propose an overall interval of 30 calendar days, regardless of the type of augmentation work, though they argue work for some scenarios may only require a few days to complete. They cite problems experienced by the long augment interval, since less work is required to augment than to do the initial build. Verizon claims it cannot shorten the interval because: it does not know what work is needed for the augment until the order is placed, it does not want to replenish certain "plug-in" equipment on short notice, and it will disturb its work force management trend-lines if it must set shorter intervals. Verizon states it is unrealistic to expect cabling

and frame augmentation to be completed in 19 work days (which it translates from Covad/Rhythm's 30 calendar day request). Covad and Rhythms recognize the need for these planning and scheduling aspects, but stress that the actual work should take only one or two days.

WorldCom concurs with Covad and Rhythms. By definition, WorldCom asserts, the work involved in an augment is less than for a new collocation arrangement. WorldCom further urges the Commission to establish shorter intervals than the current 76-day interval to all collocation augments, including those for voice-only service. The Attorney General urges the establishment of criteria for classifying two or three categories of augment requests according to complexity, and assign separate intervals for each category. Again, the Attorney General suggests Verizon's 76-day interval may unduly delay simple CLEC requests, while a 30 calendar day interval may be insufficient for complex requests.

Although we have addressed the intervals for initial construction and installation of collocation arrangements,¹ we have not established intervals for augments. We did order Verizon to track its performance in provisioning all types of collocation augments with a view to further consideration of this issue.² Verizon has not established that the 76 day

¹ Cases 94-C-0577 et al., Petition of ACC Syracuse Telecom Corporation for the Creation of an ONA Task Force, Order Resolving O&A Task Force Issues (issued December 28, 1994) and 96-C-0036, Complaint of AT&T Communications of New York, Inc. Against New York Telephone Company, Order to Resolve Complaint and Clarify O&A Order (issued September 30, 1996).

² Case 97-C-0139, Telephone Service Quality Proceeding, Order Establishing Additional Inter-Carrier Standards (issued February 16, 2000). The Carrier Working Group continues to monitor the development and reporting of metrics and standards.

interval is necessary or reasonable. Because augments involve far fewer steps than complete collocation installations, it is reasonable to shorten the overall interval for augments at this time. A 45 business day interval is appropriate for all augments--cable and splitter--for line sharing and line splitting. Verizon's work force management argument is not compelling, as it has not demonstrated that more efficient scheduling and operation is overly burdensome. Verizon will have to alter the way such work is scheduled to meet this new interval.¹

The shorter interval is supported by the FCC's Collocation Remand Order issued August 10, 2000. The FCC, in response to the decision of the U.S. Court of Appeals for the D.C. Circuit,² established a 90-calendar day interval for physical collocation installation, if a state does not adopt an interval;³ and sought comment on whether shorter intervals should be specified for augments or collocations within remote terminals.⁴ The FCC has set a 90-calendar day (about 66 business days) interval for initial construction of collocation arrangements. Thus, a longer interval of 76 business days for

¹ In addition, because Verizon has already been ordered to shorten this interval to 45 business days in another state in its footprint, Pennsylvania, workforce accommodations will have to be made in any event. Petition of Covad Communications Company for an Arbitration Award Against Bell Atlantic-Pennsylvania, Inc., Implementing the Line Sharing Unbundling Network Element, Docket No. A-310686F0002; Petition of Rhythms Links, Inc. for an Expedited Arbitration Award Implementing Line Sharing, Docket No. A-310698F0002, Opinion and Order (August 17, 2000) (Pennsylvania PUC Order).

² GTE v. FCC, 205 F.3d 416 (D.C. Cir. 2000).

³ FCC Order on Reconsideration and Order, ¶29.

⁴ Id. at ¶6.

augmentations, as proposed by Verizon, is inconsistent with the FCC's approach. Furthermore, the 45-day interval for augmentations we adopt here is consistent with the FCC's intent to have shorter intervals where the nature of the modification to the collocation arrangement is appropriate.¹ Parties may propose refinements of these intervals to specify sub-intervals for certain tasks, and submit such modifications to us for review, after further discussion of the operational issues in the DSL collaborative and the Carrier Working Group.

Provision of Access to the
High Frequency Spectrum for
Carriers Providing Voice Over UNE-P

The second issue is whether Verizon should be required to facilitate an offering comparable to line sharing for voice competitors serving customers using the Unbundled Network Element Platform (UNE-P) and, if so, on what timetable must its wholesale offering be available to competitors. Verizon has been providing DSL services to retail customers using line sharing since the inception of its DSL offering, first by itself and after July 2000 through a data affiliate. Verizon's voice customers may also enjoy line shared DSL from other data providers. Competitors offering voice and data service now propose that customers served by voice carriers other than Verizon, for whom service is provided via the UNE-P, must have access to DSL over their voice lines. The DSL collaborative group named this process "line splitting," to distinguish it from line sharing.

¹ PCC Order on Reconsideration, §114 and footnote 241.

1. Parties' Legal and Policy Arguments

At the technical conference and in brief, Verizon asserted it had no legal obligation to provide line sharing over UNE-P or resold lines or to provide splitters to accomplish these ends for UNE-P or resale providers. However, Verizon asserted it would continue to work with CLECs and DLECs to facilitate access to the high frequency portion of loops provided to CLECs.

The competitors, both voice providers of local exchange service and data service providers, point out that Verizon's position falls short of a binding commitment to provide line splitting, and that Verizon has refused to offer line splitting pursuant either to tariff or contract. Competitors fear the incumbent will delay the splitting of lines for which voice service is provided by others, while moving aggressively to build out its own line sharing customer base, as evidenced by the proposed Verizon merger with NorthPoint Communications Group, Inc.¹

There is no dispute that the engineering processes entailed in splitting a line for a UNE-P voice customer and sharing a line for a Verizon voice customer are identical: there is no physical difference. The record evidence to this effect is unambiguous. The differences arise in the operation of the OSS, which must be modified to reflect the different business relationships among the end-user, the voice provider, the data service provider, and Verizon. According to Verizon, its software vendor, Telcordia, expects to release new software by November 30, 2000, reflecting a two-wholesaler environment. Verizon expects the testing and modification of that software to

¹ Verizon's petition seeking merger approval is pending in Case 00-C-1487.

conclude no later than March 2001. Verizon points out, however, that competitors bear a considerable burden to address and agree to the business rules that will govern in this new environment.

Verizon asserts it has no legal obligation to line split, and that New York cannot require it to do so consistent with FCC rulings. It relies on the FCC Line Sharing Order which noted that the record before the FCC did not support extending line sharing requirements to loops other than those on which an incumbent LEC provides voice band service. The FCC concluded that "incumbent LECs must make available to competitive carriers only the high frequency portion of the loop network element on the loops on which the incumbent LEC is also providing analog voice service ... Similarly, incumbent carriers are not required to provide line sharing to requesting carriers that are purchasing a combination of network elements known as the platform. In that circumstance, the incumbent no longer is the voice provider to the customer".¹ Verizon points out that the conclusions found in the Line Sharing Order are also embodied in FCC Rule 319(h).²

Competitors respond that the FCC is presently reconsidering those portions of its Line Sharing Order, and that in its approval of the SBC/Texas §271 application, it indicates that purchase of UNE-P may be construed to imply purchase of the

¹ Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Third Report and Order in CC Docket No. 98-147 and Fourth Report and Order in CC Docket 96-98 (Line Sharing Order), ¶72.

² The regulation requires an incumbent LEC only to provide a requesting carrier with access to the high frequency portion of the loop if the incumbent LEC is providing, and continues to provide, voiceband services on that loop. 47 CFR 51.319(h).

full capability of the loop including its capacity to be split to accommodate DSL service.¹ Competitors urge the requirement of line splitting under state law, citing Public Service Law §§91, 94, and 97, and this Commission's long history of requiring unbundling. VAD adds its voice to that of data competitors, asserting that data providers should be able to provide data services over loops used by other CLECs to provide voice services.

2. Discussion

Over two million lines are being served by Verizon's competitors in the New York local exchange market; the majority of these are lines served using the UNE-P mode of entry.² Currently, this group of customers is ineligible for DSL services provided by line sharing. These customers may, however, obtain line sharing DSL by migrating their voice service back to the incumbent. Thus, this restriction operates to advantage Verizon in its capacity as a voice local exchange service provider: it alone can provide customers with a full range of desirable associated services.

Conversely, competitors submitted evidence that customers were precluded from replacing Verizon as their local exchange service provider without also terminating their line shared DSL service. Accordingly, this restriction prevents free

¹ CC Docket No. 00-65, Application by SBC Communications In. Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in Texas, Memorandum Opinion and Order (released June 30, 2000) (SBC/Texas 271 Approval Order), ¶325.

² Over 1.1 million customers receive local exchange service over UNE-P; over a quarter of million UNE-P orders were filled in July 2000 alone. Verizon Carrier-to-Carrier Report for July 2000.

migration by customers to their voice provider of choice. Competitive voice providers using UNE-P constitute a substantial segment of the local exchange market and their share is steadily increasing. Access to the high frequency portion of the UNE-P loop will allow voice CLECs the capacity to provide the same range of advanced services to residential and business customers as are now available to Verizon customers.

The Commission has broad authority to review the rules, regulations, and practices of telephone companies to ensure, consistent with federal law, that that they are just, reasonable, and nondiscriminatory.¹ This authority encompasses requiring Verizon to facilitate line splitting for customers served by competing voice carriers using UNE-P to promote competition and avoid discrimination. We find that a restriction on line splitting would unreasonably hinder the deployment of advanced services to New York's consumers and would discriminate against competitor carriers' voice offerings. Thus, we require Verizon to provide access to the full functionality of the UNE-P loop, including the high frequency spectrum.

Requiring line splitting is also consistent with federal law and FCC regulations. First, the FCC designated the high frequency loop spectrum of an ILEC voice loop an unbundled network element.² In so doing, it also expressly invited states to add to its line sharing requirements, recognizing state markets may develop differently and more quickly than the national market;³ and it is currently reconsidering the UNE-P

¹ Public Service Law §§94 et seq.

² Line Sharing Order, ¶¶13, 25.

³ Line Sharing Order, ¶¶223-225.

line splitting issue. Further, although CLECs generally take the position that the SBC/Texas 271 Order obligates ILECs to provide line splitting over UNE-P, the FCC noted that line splitting issues had not been fully developed at the time the Texas Commission was considering SBC's Section 271 application. Unlike the record before the Texas Commission, line splitting issues have been thoroughly presented in this proceeding. Based on the record before us, we find that line splitting over UNE-P purchased from Verizon is technically feasible, and necessary for competitors to provide their services to customers.

Second, viewing the requirement that Verizon facilitate CLEC access to the high frequency portion of the loop as a further unbundling is also consistent with federal law.¹ In its UNE Remand Order, the FCC stated that "Section 251(d)(3) grants state commissions the authority to impose additional obligations upon incumbent LECs beyond those imposed by the national list, as long as they meet the requirements of Section 251 and the national policy framework instituted in this Order."² Requiring Verizon to facilitate line splitting access to the high frequency portion of the loop meets the criteria in §251. States may require the unbundling of additional network elements upon a determination that lack of access to a non-proprietary network element impairs a CLEC's ability to provide the service it seeks to offer. We find that lack of access to line splitting would impair both voice and data competitors' ability to provide customers with desired services. Lack of such access

¹ Telecommunications Act of 1996 (the 1996 Act) (47 U.S.C. §251(d)(3)) provides for state regulations, orders, and policies establishing access and interconnection obligations of local exchange carriers, where consistent with the Act.

² UNE Remand Order §154; see, also, Line Sharing Order §§221-225.

would materially diminish voice service providers' ability to offer a package of services comparable to that offered by Verizon, as a practical, economic, and operational matter. Further, lack of access to UNE-P customers on a line-splitting basis would materially diminish data competitors' capacity to offer all DSL services to a significant customer base. The alternative, providing DSL on a dedicated line basis, is qualitatively more costly, more technically cumbersome, and more time-consuming to provision.

Additional consideration must be given to whether the CLEC can provide the element or whether an alternative element can be obtained from outside the ILEC's network.¹ If the lack of access impairs the CLEC's ability to offer the service it wishes to provide, we may require the unbundling of that element. States may take into consideration whether unbundling of a network element promotes the rapid introduction of competition, promotes facilities-based competition, investment, and innovation; promotes reduced regulation; provides certainty to requesting carriers regarding the availability of the element; and is administratively practical.²

Based on the record before us, we find that denial of access to line splitting significantly impairs both the voice and the data CLECs' ability to offer services to customers; there is no comparable resource available outside the ILEC system. In addition, we find that line splitting will promote competition, for the competitive (voice) local exchange carriers, and the data CLECs, opening a large segment of the market for the provision of their services. Provision of line splitting will increase the likelihood that CLECs will begin to

¹ 47 CFR 51.317 (b), (d).

² 47 CFR 51.317(c).

make investments in facilities by helping to solidify the CLECs' market share. Finally, line splitting will make advanced services available to customers of all local exchange carriers and therefore raises the possibility of less regulation.

3. Timetable for Providing Line
Splitting and OSS Modifications

Substantial modification of the Verizon OSS is required to address ordering, provisioning, billing, maintenance, inventory, and repair functions. This process is underway and must be fully developed by Verizon in cooperation with the CLECs, particularly with respect to business rules.¹

Verizon's vendor, Telcordia, is preparing a software application to be released by November 30, 2000, to interface with Verizon's OSS. Although Telcordia's effort was primarily intended for basic line sharing, Verizon indicated that the new release will include fields which will accommodate two wholesalers, one providing voice and the other data. Verizon reports that it could take as much as three months to test the new software, debug it, send it back to Telcordia for revisions, and retest it. This schedule would allow implementation of the new OSS by March 2001, which we will require.

Anticipating the successful Telcordia release, Verizon should take steps immediately to establish a pilot for line splitting to test the ordering and provisioning processes and to work through some of the problems that likely will be encountered. Line splitting must be made available as soon as practicable, whether or not a fully electronic interface is in place.

¹ For example, parties are negotiating the OSS systems necessary to reflect the range of business relationship between data and voice CLECs.

Ownership of Splitters in
the Verizon Central Office

At issue is whether to require Verizon to purchase and own splitters located in its central offices and, if so, whether to require Verizon to provide splitter access to competitors one line at a time. The FCC has rejected CLEC attempts to impose a splitter ownership requirement upon the incumbent LEC.¹ In AT&T's view, the splitter should be viewed as an intrinsic component of the loop and should be provided with the loop by the incumbent as part-and-parcel of its loop unbundling obligations.² It asserts that incumbent ownership of splitters would facilitate consumer choice of Internet Service Provider and, possibly, data local exchange carrier as well. Data CLECs take a middle road and ask for an option of a Verizon owned splitter.

Verizon takes issue with these views; it points out that there are widely differing splitter designs, each with different wiring. In its view, this is a constantly changing technology in which the splitter should be matched to the DSLAM, the property of the data service provider, to ensure protection of the DSLAM.

The AT&T position is based upon the assumption that there will be a high proportion of Internet service provider churn, requiring concomitant data service provider churn. It asserts incumbent ownership of the splitter will facilitate a significantly simpler cross-connect process and result in faster and more accurate migration of data customers from one data service provider to another. Verizon countered with the

¹ SBC/Texas §271 Order, ¶327.

² Citing the UNE Remand Order, ¶175.

assertion that incumbent splitter ownership would make high volume changes more, not less, burdensome.

Parties to the DSL collaborative discussed in considerable depth the relative merits of various configurations of splitter ownership and placement and agreed to two options, neither of which entailed incumbent ownership of the splitter. In fact, dozens of collocation installations have been put in place, and data CLECs indicated no enthusiasm for reconfiguring these for ILEC ownership.¹ In light of the heavy burden AT&T must shoulder to demonstrate that reconfiguration or change in plans adopted by the collaborative are necessary, it cannot be said to have made a convincing case. Nor is its legal argument compelling that the splitter is an intrinsic component of the loop; Verizon's response that splitters are widely available in the marketplace refutes the view that AT&T must be provided them by the incumbent or face impairment of its provision of DSL-capable loops to customers. Further, although competitors are interested in the provision by Verizon of access to the splitter function a line at a time, their evidence failed to establish that this was either a superior or a more equitable network design than that presently in place. Moreover, the FCC has not required incumbent LECs to provide access to these splitters as part of the loop, but is reviewing that determination in response to petitions for reconsideration of the UNE Remand

¹ Rhythms, for example, asserts it would be beneficial for CLECs if Verizon were to own splitters, but expresses its preference for ownership and control of splitters within its collocation space. Rhythms' Initial Brief, p. 26.

Order. Thus, splitter ownership by Verizon will continue to be at its option unless the FCC rules otherwise.¹

LINE SHARING IN THE
DIGITAL LOOP CARRIER ENVIRONMENT

Other issues relate to customers served by digital loop carrier, that is, loops consisting of fiber optic cable with electronics from the central office to a remote terminal and a feeder distribution interface point, and from there copper to the customers' premises. The issues concern whether the current Verizon tariff filing, offering competitors certain collocation opportunities at the remote terminal, comports with its legal obligations or whether additional forms of access to these customers are necessary for competitors to offer their services.

Verizon's Remote Terminals and Present Technology

Approximately 15% of Verizon's loops are served by digital loop carrier technology, entailing installation of fiber optic cable from the central office to a remote terminal, closer to the end user, with copper facilities installed from the remote terminal to the end user premises.² Verizon intends to expand its network, and replace faulty all-copper loops, with these part-fiber/part-copper loops, at an undetermined rate.

¹ Parties reached agreement on a method to resolve disputes as to the source of trouble on a line shared loop (appended to this order as Attachment 1). We approve the agreement, which is reasonable. As to other testing issues, we will require Verizon to provide data competitors test access identical to, and at the same price as, the test access it provides its data affiliate, in order to ensure parity among all competitors.

² Tr. 381.

Because DSL is inherently a copper-based technology, in order for a data provider to serve customers whose service is carried in part over fiber optic cable, equipment necessary to provide DSL (i.e., DSLAMs and splitters) must be placed at the remote terminal.

On May 17, 2000, Verizon filed tariff revisions in compliance with the UNE Remand Order, offering options for competitors to gain access to its customers served by digital loop carriers. Verizon opines that, as a technical matter, it can not provide voice and data end-to-end over a loop served by digital loop carrier; and that, as a legal matter, line sharing is required only over copper loops. Therefore, it has no obligation to provide line sharing where digital loop carrier is in use. The tariff amendments allow competitors to collocate their equipment for providing DSL service at adjoining sites, where room in the incumbent's remote terminal has been exhausted, and the competitor can obtain the necessary rights-of-way. To transport the data traffic to the competitor's point of presence, the tariff offers dark fiber, for which competitors must supply the necessary electronics.¹

Competitors consider this tariff offering so prohibitively expensive and burdensome as to amount to an impairment of their ability to provide services to customers and a denial of access to necessary elements unobtainable elsewhere on a reasonable, commercial basis. They ask us to require Verizon to offer commercially accessible collocation of DSLAM

¹ Verizon will provide unbundled feeder to transport data between the central office and the remote terminal or adjoining competitor structure. Verizon offers the subloop, not the electronics or the packet transport. These would entail additional costs where available.

equipment in remote terminals where presently feasible, in particular the lease or placement of line cards in remote terminals that can accommodate DSLAMs. They also want us to assure that Verizon's roll-out plans will be based upon such next generation digital loop carrier technology as will accommodate the competitive presence at their remote terminal.

Verizon states that neither it nor its data affiliate has this equipment in any remote terminal in New York. That is, today no customer served by digital loop carrier can obtain DSL. Verizon testified, and no party contested, that most of its New York remote terminals are exceedingly compact, quite full already, and not designed for advanced services technology.¹ Verizon also indicated it intends to build out fiber into its network using next generation digital loop carrier.

Generally, competitors agreed with Verizon's assessment of the present system and focused their concerns on the planned and future upgrades. In addition, competitors seek packet switching on an unbundled network element basis where next generation digital loop carrier installations exist today, in order to link the Verizon remote terminal or their own equipment to the central office.²

¹ Verizon testified that between 7 and 8 percent of its lines were served by next generation digital loop carrier, only some of which is compatible with line card collocation.

² Packet switching is defined as the process of routing and transferring data by means of addressed packets so that a channel is occupied during the transmission of the packet only, and upon completion of the transmission the channel is made available for the transfer of other traffic.

The Legal Requirements

In the BA/GTE Merger Order, the FCC required that to the extent a Verizon/GTE incumbent LEC allows its separate affiliate to collocate packet switches, routers, or other equipment, the nondiscrimination safeguards compel the incumbent LEC to allow unaffiliated carriers to collocate similar equipment on nondiscriminatory rates, terms and conditions.¹ To do otherwise would allow the transfer of Verizon's advanced services assets to defeat or elude its obligation to provide nondiscriminatory access to network elements and services for the provision to customers of advanced services.²

Further, in the UNE Remand Order, the FCC reasoned that where the incumbent has deployed digital loop carrier systems, and where no spare copper facilities are available, competitors are effectively precluded altogether from offering xDSL service if they do not have access to unbundled packet switching.³

¹ BA/GTE Merger Order, ¶261.

² Advanced services are defined by the Federal Communications Commission (FCC) as "intrastate or interstate wireline telecommunications services...that rely on packetized technology and have the capability of supporting transmission speeds of at least 56 kilobits per second (kbps) in both directions." In re Applications of Ameritech Corp., Transferor, and SBC Communications, Inc. Transferee, for Consent to Transfer Control, CC Docket No. 98-141, Memorandum Opinion and Order (released October 8, 1999) (the Ameritech/SBC Order), ¶363.

³ UNE Remand Order, §§304, 313.

To address this problem, the FCC required packet switching to be offered as an unbundled network element¹ under certain circumstances. More recently, the FCC noted that where technically feasible, the incumbent LEC must make physical collocation available in any of its structures that house network facilities, including remote terminals.²

Verizon considers its tariff amendments meet the requirements of the FCC with respect to collocation in the remote terminal and dark fiber.³ It says it has no DSLAM capability in any of its remote terminals so that neither its advanced services affiliate nor the parent company provide advanced services through the remote terminal. Accordingly, in Verizon's view, it does not meet the preconditions the FCC listed to require provision of packet switching on an unbundled element basis.⁴

¹ Parties also urged that Verizon be required to resell advanced services. However, since Verizon is not providing these services at retail, it is not required to provide them at retail rates (47 USC 251(c)(4)). Furthermore, VAD is not a successor or assign under 251(h)(1) (see also CC Docket 98-184, Application of GTE Corporation and Bell Atlantic Corporation for Consent to Transfer Control (released June 16, 2000) (BA/GTE Merger Order). Therefore, VAD is not required to resell advanced services under the FCC rules.

² Collocation Remand Order, ¶47.

³ For a CLEC to use dark fiber, it must collocate and provide the electronics; Verizon then implements the cross connections necessary to connect the dark fiber. The cost and process would have to be negotiated; without more experience, Verizon is reluctant to tariff a more specific service to the central office.

⁴ See 47 CFR 51.319(c)(3).

Discussion¹

The record shows that Verizon's remote terminals are not, for the most part, presently capable of supporting ADSL and that upgrading the remote terminals can be costly and may involve repercussions to basic services provided by Verizon. It also shows that collocation by competitors on the terms offered by Verizon's tariff at these remote terminals is under many circumstances prohibitively costly and slow, and unlikely to be commercially viable.

Where and when technically feasible, customers served by digital loop carrier must have access to xDSL services offered them by data local exchange carriers. Therefore data competitors must have access to the Verizon network to serve these customers on a commercially reasonable basis. If and when Verizon's data affiliate begins to serve customers using digital loop carrier, all the opportunities afforded it by Verizon to serve those customers must simultaneously be available to all competitors. To ensure competitive parity at that starting gate, Verizon must inform the Commission and data competitors as business decisions are made to deploy next generation digital loop carrier capable of supporting DSL services.

Further, Verizon cannot impair competitors' access to these customers simply by choosing not to provide them DSL itself. Verizon must make DSL services available to these customers where competitors choose to serve them, by methods additional to those offered in its current tariffs. This can be

¹ Parties reached agreement on an additional issue, line and station transfer. Line and station transfer provides a copper loop for DSL provisioning purposes when customers are served by digital loop carrier. The proposed settlement is appended as Attachment 2, and we adopt it.

done by a menu of methods at Verizon's election, and we will not require any particular one, but will require such accommodation on a case by case basis where the current Verizon tariff offering is not commercially viable. The simplest of these methods, of course, is for Verizon to migrate the customer currently served by digital loop carrier to an all-copper loop: parties have agreed to conditions for these pair swaps or line and station transfers, and we approve this agreement. Another method is allowing competitors virtual collocation of their line cards in the incumbent's next generation digital loop carrier terminals. Where Verizon remote terminals now are capable of accommodating this equipment, and as it becomes technically feasible due to new construction of next generation remote terminals in the future, Verizon can meet its obligations by allowing competitors to place their line cards in the remote installation and making transport available. Another option, favored by incumbents in other regions, is an offering at wholesale, as a combination of elements to competitors, access to customers served by digital loop carrier. Under recent FCC decisions, Verizon can provide a wholesale service to competitors and to its data affiliate similar to that offered by SBC.

To provide DSL to customers served by digital loop carrier, competitors need to transport data from the remote terminal to the central office or other point of presence. Verizon must modify its tariff filing to include offering dark fiber from the remote terminal to the central office. Verizon does not currently meet the FCC preconditions for us to require a general offering of packet switching as a network element, because Verizon is not currently providing this element to its data affiliate. Were it to do so, Verizon would have to offer this element to all competitors. However, on a case-by-case

basis, where it is technically feasible for competitors to place line cards in Verizon next generation digital line carrier terminals and where this is the only commercially reasonable method for them to provide customers DSL, data service competitors may request that Verizon be required to provide packet switching.

CONCLUSION

The above determinations should add reasonable and timely requirements, consistent with federal law and FCC regulation, to ensure that Verizon carries out its wholesale functions so as to continue to maximize New Yorkers' access to a competitive market for advanced services.

The Commission orders:

1. Verizon New York Inc. f/k/a New York Telephone Company (Verizon) shall provision digital subscriber line services for a competitive data local exchange carrier's customer in intervals consistent with this order.
2. Verizon shall complete augmenting of cable and splitter capacity in competitors' collocation arrangements consistent with this order.
3. Verizon shall offer comparable line sharing, or line splitting, to voice competitor local exchange carriers serving customers using the Unbundled Network Element Platform as soon as practicable. Verizon is also directed to immediately establish a pilot for the new Telcordia software application discussed in this order, with full commercial implementation no later than March 2001.
4. Verizon will be required to offer to competitors access to customers served over digital loop carrier as it

becomes technically feasible and as is necessary for competitors to offer their services, consistent with this order.

5. Verizon should modify its dark fiber tariff offering consistent with this order.

6. This proceeding is continued.

By the Commission,

(SIGNED)

JANET HAND DEIXLER
Secretary

ATTACHMENT 1

TEST ACCESS PROPOSED SETTLEMENT LANGUAGE

In the event that the parties dispute the cause or source of a trouble on a line shared loop, Covad or Rhythms may request, and Verizon will agree, to a joint technician meeting, at the main distribution frame ("MDF") serving that loop, to perform testing on the loop. This joint meeting will occur within 24 hours of the request being made to the appropriate Verizon service center (currently the RCCC or RCMC). The testing will follow routine procedures for clearing and isolating troubles and will employ hand held testing devices selected, provided, and operated by Covad or Rhythms. Such testing will involve gaining intrusive access to the line shared loop to be tested (at one or more appearances on the MDF or other Distributing Frames in the Central Office upon which the line shared loop appears) and connecting the hand held testing devices thereto. Within 15 minutes of the meeting time agreed between the parties, Covad or Rhythms shall have permission to begin testing on the MDF.

In order for the parties to have a good faith dispute about the cause or source of a trouble on a line shared loop, the parties need only disagree about the cause or source of a trouble on a line shared loop. Nevertheless, to the extent that either party has facilities in place to conduct any other form of testing of the line shared loop, it must present whatever findings it has from that testing to the other party at the time of the meeting at the MDF or within 24 hours thereof.

ATTACHMENT 2

A Pair Swap or Line and Station Transfer done in conjunction with a Line Share Arrangement request involves the reassignment and relocation of an existing Verizon end user voice service from a Digital Loop Carrier ("DLC") facility that is not qualified for line sharing to a spare or freed-up qualified non-loaded copper facility.¹ Such a swap or transfer would be done in order to support the requested service transmission parameters. This new process will be applied to all cases where Verizon encounters the customer on DLC and where Verizon can automatically reassign the customer to a spare copper facility. This effort involves additional installation work including a dispatch and will require an additional charge.

¹ A freed-up pair is a qualified, copper pair already assigned.

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on October 24, 2001

COMMISSIONERS PRESENT:

Maureen O. Helmer, Chairman
Thomas J. Dunleavy
James D. Bennett
Leonard A. Weiss
Neal N. Galvin

CASE 97-C-0139 - Proceeding on Motion of the Commission to
Review Service Quality Standards for Telephone
Companies.

ORDER MODIFYING EXISTING AND ESTABLISHING
ADDITIONAL INTER-CARRIER SERVICE QUALITY GUIDELINES

(Issued and Effective October 29, 2001)

BY THE COMMISSION:

INTRODUCTION

On December 15, 2000, the Commission issued an Order Adopting Revisions to Inter-Carrier Service Quality Guidelines (Guidelines) for Verizon New York Inc. f/k/a New York Telephone Company (Verizon) and Frontier Telephone of Rochester, Inc. (FTR). Since our December 2000 order was issued, the Carrier Working Group has continued its collaboration as an industry group and has productively reached consensus on many issues and narrowed the gaps between carriers on non-consensus issues. This order adopts numerous consensus changes to the Guidelines,

resolves disputes on non-consensus issues, and outlines future work to be undertaken by the Carrier Working Group.¹

CONSENSUS ITEMS

The Carrier Working Group agreed to certain revisions, additions and deletions to the Inter-carrier Telephone Service Quality Guidelines and its recommendations are discussed below. We directed this industry group to monitor performance standards and measurements and recommend modifications to us as needed. We expect the Carrier Working Group to continue this effort and advise us of the need for further modification of these adopted items and any existing standards and measures.

Administrative Changes to Guidelines

Members of the Carrier Working Group suggest clarification of language, correction of minor errors, and indicate changes necessary to conform the Guidelines to current operational practices. These have been classified by the group as administrative changes and are summarized in Attachment 1, Section A - Administrative Changes to Guidelines. These are reasonable consensus changes, which will help clarify the Guidelines, and we adopt them.

Best Metrics Recommendations

At the direction of the Administrative Law Judge, the Carrier Working Group formed a subgroup to review existing metrics to determine which are the best measures of current operational processes and to streamline the performance and reporting requirements consistent with the needs of all participants. Based largely on this effort, the Carrier

¹ Notice of the proposed Commission action adopting additional inter-carrier service quality metrics and standards was published in the State Register on June 27, 2001. The comment period expired on August 11, 2001. No comments have been received.

Working Group recommends elimination of 238 metrics, addition of 55 metrics and modification of 39 others.² These recommendations are summarized in Attachment 1, Section B - Best Metrics Sub-Group Consensus Items. The deletions, additions, and modifications described therein are reasonable and will streamline and increase the utility of the monthly carrier-to-carrier reports. We adopt the recommendations and direct Verizon and Frontier Telephone of Rochester to incorporate them into their respective compliance filings. The reporting carriers should begin reporting performance on the metrics beginning January 2002.

It should be noted that for OR-1 Order Confirmation Timeliness and OR-2 Reject Timeliness, the Carrier Working Group agreed to eliminate most average measures, because no standards apply to them and parties can calculate the averages from Verizon-provided files. The Carrier Working Group indicates it may need average data periodically to reassess performance standards. In addition, the Group agreed to eliminate provisioning metric PR-2 Average Completion Interval because other metrics capture performance in this area.³

Verizon will retain one year of raw data for both ordering and provisioning should the Carrier Working Group require any special studies. The general terms are specified in Attachment 1, Section I - Carrier Working Group Dataset Requests. Staff should monitor any such requests for data and studies and promptly report any delays encountered in receiving them to the Administrative Law Judge.

² This count includes recommendations in addition to those suggested by the subgroup.

³ PR-1 captures the provisioning interval offered while PR-3 % Completed Within X Days and PR-4 Missed Appointments adequately measure success meeting the promised interval.

Changes to Maintenance and Repair Metrics

Verizon and operational personnel of the competitors (CLECs) have been investigating ways to improve repair performance for unbundled network element loop products. Because these services combine Verizon loops and CLEC switches, Verizon cannot fully test circuits to determine the location of troubles. CLECs are responsible for testing and directing Verizon to dispatch its repair technicians either "in" (to the Central Office) or "out" (to the outside plant). On dispatches out, CLECs are also responsible for ensuring the Verizon technicians will have access to end-user premises to verify that troubles are not caused by customer premises equipment.

Ultimately, the parties seek to eliminate the so-called "double trouble" phenomenon which occurs when the CLEC misdirects Verizon to dispatch a technician either inside or outside the central office and no trouble is found. In this case, the trouble ticket must be closed and the CLEC must initiate a second ("double") trouble ticket directing dispatch in the opposite direction.

In the course of investigating reasons for apparent poor performance, the parties discovered that Verizon's metrics for unbundled network element loop products have been impacted by factors beyond the company's control. Verizon's trouble duration intervals in MR-4 have been impacted by an inability to gain access to end user premises during weekends when many businesses, the primary users of these products, do not operate. The problem will be reflected by lengthening the trouble duration intervals set forth in MR-4. The group also recognizes repeat trouble reports in MR-5 as having been overstated due to misdirected dispatches. The Carrier Working Group has agreed to implement limited exclusions to the loop product metrics to more accurately capture performance for which Verizon is responsible. The parties have agreed, for unbundled network element loop products, to (1) use a limited stop clock for MR-4, eliminating weekend hours in cases where there is no premises access, and (2) exclude misdirected

dispatches from MR-5. The parties also agreed to eliminate double dispatch metrics from MR-3 Missed Repair Appointments.

The recommended changes to these metrics are summarized in Attachment 1, Section C - Changes to Maintenance and Repair Metrics. These changes will more realistically measure the portion of performance that is Verizon's responsibility. We adopt these recommendations which should be incorporated in the compliance filing.

Line Splitting Metrics

In anticipation of the rollout of line splitting⁴ service offerings by carriers, the Carrier Working Group recommends additional metrics to monitor performance. Verizon has agreed to include line splitting ordering performance in the existing measures for line sharing. The company will report performance for an additional 13 provisioning and 13 maintenance and repair metrics, largely mirroring those currently reported for line sharing. The line splitting measures are listed in Attachment 1, Section D - Line Splitting Metrics. These consensus additions to the existing metrics are reasonable. We adopt them and expect them to be implemented with the compliance filing.

Modifications to Existing Metrics

The Carrier Working Group recommends changes to existing metrics to reflect changes in industry operational practices. First, provisioning measures for digital subscriber line (DSL) products should be modified to remove unnecessary exclusions and to reflect analogous retail products. Second, the mean time to repair for special services will be reported for more specific products (designated at the CLEC's request.) Third, the service order accuracy metric will reflect testing

⁴ Line splitting refers to those loops carrying both voice and data service over which voice service is provided by a CLEC. It differs from line sharing where the voice service is provided by an incumbent local exchange carrier.

for all orders when the next industry local service order electronic protocol (LSOG4) is implemented in February 2002. Finally, a diagnostic measure to estimate loop order cancellations due to lack of facilities will be established. The proposed changes are detailed in Attachment 1, Section E - Consensus Items on Modifications to Existing Metrics. We adopt these changes as reasonable. These changes should be implemented with the compliance filing.

Collocation Augmentations

The Commission's orders in the DSL proceeding directed Verizon to augment cable and splitter capacity between its main frame and existing CLEC collocation arrangements in 45 business days. Proposals for refinements of the interval or task-related sub-intervals as well as Verizon's proposal for CLEC-managed augments were referred to the Carrier Working Group.⁵ A subgroup was formed to develop augment interval procedures, and it agreed to a list of the types of jobs to which the shorter interval applies.

To date, the CLEC participants have expressed little interest in managing augments, but Verizon will continue to offer this option. The parties agreed to permit Verizon to manage the 45-day interval, with a graduated performance standard⁶, for the augments listed in Attachment 1, Section F -

⁵ Case 00-C-0127, Proceeding on Motion of the Commission to Examine Issues Concerning the Provision of Digital Subscriber Line Services, Opinion 00-12 (issued October 31, 2000), pages 9-10; Order Granting Clarification, Granting Reconsideration In Part and Denying Reconsideration In Part, and Adopting Schedule (issued January 29, 2001), page 7.

⁶ The standard would begin at 80% of the 45-day augments completed on time, and increase to 85% after two months, to 90% after another two months, and to 95% after an additional two months. Verizon should begin reporting performance with the 80% standard for December 2001 and report performance thereafter in accord with the graduated standard (85% for the February 2002 report month, 90% for April 2002, and 95% for June 2002).

Collocation Augments. These parameters reflect the consensus of interested stakeholders, they are reasonable, and we adopt them. Verizon will incorporate them in the compliance filing.

Customer Migration Service Record Standard

The Commission's February 16, 2000 Order included an interim performance standard for the provision of a Customer Service Record (CSR) to a requesting competitor.⁷ CLECs were urged to resolve CSR operational issues through inter-carrier discussions wherever possible. Further development of a CSR timeliness standard was referred to the Carrier Working Group and the Case 00-C-0188 CLEC-to-CLEC Migration collaborative. The Case 00-C-0188 Migration Operations Workgroup recommended a phased-in approach for provision of simple residential and business records of five lines or less.⁸ The Carrier Working Group recommends that we adopt the standard developed in Case 00-C-0188. These recommended standards reflect industry consensus, they are reasonable, and we adopt them.

Geographic Reporting

The current version of the Carrier-to-Carrier Report includes geographic reporting for several Provisioning and Maintenance and Repair metrics.⁹ Such reporting requires that

⁷ A CLEC requesting a CSR in the morning should receive it by 5:00PM the same day; a CSR requested in the afternoon should be received by noon the next day.

⁸ The recommendation of the Migration and Carrier Working Groups is to require the provision of customer service records (commencing with the Commission's order): 80% of requested CSRs within 48 hours; (2) six months later, 80% within 24 hours; and (3) six months later, 80% the same day if requested by noon or by noon the next day if requested after noon. An additional 24 hours would be allowed for a one-year period for CSRs requiring extensive research.

⁹ Performance for Special Services is reported for LATA 132 and the rest of New York State. Performance for other products are reported for Manhattan, the balance of Greater Metro, Suburban and the balance of New York State.

recipients of the report execute a confidentiality agreement, because it may be possible to deduce the performance of individual CLECs in areas where they are the sole Verizon competitor or the identity of specific end users in areas with few customers for a particular product.

In order to facilitate wider distribution of the report, the Carrier Working Group has agreed that a statewide version, with no geographic breakdown, should be publicly available to any and all interested parties. Verizon will provide geographically disaggregated reports (to those parties who have executed a confidentiality agreement) upon request. Verizon will also continue any disaggregated reporting required by individual interconnection agreements. We will adopt the reporting terms summarized in Attachment 1, Section H - Geographic Reporting.

Retail Comparisons

At the request of the CLECs, Verizon prepared a summary list of wholesale products and their retail analogs, that is, the retail products used for parity comparison purposes for Provisioning, and Maintenance and Repair metrics. The Carrier Working Group agreed that it is useful to be able to find this information in a single place. The next compliance filing of the Carrier to Carrier Guidelines document should include the Retail Analog Table.

Billing Performance

The Carrier Working Group developed two new billing performance metrics to replace two existing billing accuracy metrics. The new metrics resolve the problem of developing a billing accuracy standard that would not provide a disincentive to fairly correct bills. The new metrics accomplish this by measuring the process for correcting bills, not the results. The focus of the new metrics is on the timely attention to billing claims and adherence to a claims resolution process. The adopted metrics are shown in Attachment 1, Section J - New Interim Billing Claims Processing Metrics.

However, billing claims cover a wide variety of bill problems not envisioned by the original billing process. Therefore, in addition to the above metrics, the group suggests an interim study period of 4-6 months where results would be reported to help finalize the metrics in future working group meetings. This study should include an initial report for claims submitted in 2001, showing claims not resolved in 28 days, claims fully or partially rejected, the reasons for rejection, and claims that were never acknowledged. The initial report shall accompany the compliance filing. The group will report its findings to us by June 2002.

NON-CONSENSUS ITEMS

The parties disagree as to the standards for (1) resolving missing notifier issues, (2) providing notifiers, and (3) the interval for DSL line sharing/line splitting provisioning. The adopted notifier metrics and standards for the notifiers are included in Attachment 1, Section G - Notifier Metrics.

Missing Notifiers

This metric measures the time it takes to adequately resolve an exception for a missing Netlink EDI notifier.¹⁰ The current exception process was put in place in March 2000 when the pre-Netlink software failed and a large amount of notifiers were lost in Verizon's electronic systems. With the success of the new software, the number of lost notifiers was drastically reduced. However, while the resolution for a missing notifier may have been adequate then, it does not provide CLECs adequate information to deal with customers and their

¹⁰ EDI Netlink notifiers are electronic messages providing information about the progression of a CLEC order. An exception is a report to Verizon that a notifier is past due and a resolution is needed.

operations today. The Carrier Working Group disagrees on: (1) the length of intervals, (2) the standard for the intervals, and (3) whether a jeopardy notice can be submitted for a missing confirmation notice.

Generally, Verizon objects to the imposition of a standard it believes exceeds its current capabilities. Verizon urges us to consider that this metric entails a larger context than exception notification. Rather, it involves how a work center investigates, corrects and determines that the appropriate notifier is being sent to the CLEC, all of which are manual and time consuming. Verizon points out that the number of purchase order numbers (PONs) that are received by the CLECs is small compared to the total number of PONs¹¹ and that the resolution of PON exceptions does not inhibit the CLECs ability to compete. Verizon points to its active role in resolving exceptions and analyzing why they are delayed. It further notes that, as the exceptions process evolves, the remaining issues will be more complex and time consuming. Verizon also contends that since CLEC billing cycles must be longer than 9 days, a 9-day standard is adequate to get corrections into the billing cycle. Additionally, Verizon states that its own billing cycle is thirty days and that some exceptions are the result of problems in processes common to both retail and wholesale orders. In these cases, adopting the CLECs' proposal would force the wholesale operation to resolve exceptions of this type in less time than the retail operations require.

The CLECs argue that missing notifiers affect their ability to provide service to and maintain customers. MetTel

¹¹ The number of PONs on exceptions compared to the total PONs averaged 2.58% over the first eight months of 2001.

claims its monthly churn rate for customers on exceptions is three times that of its other customers.¹² Thus, allowing a longer interval to resolve a problem is unacceptable. The CLECs claim the current resolution process is a reactive system that relies on them to be Verizon's quality control. A true proactive system should allow Verizon to start investigating missing notifiers as soon as the due date is missed, not three days later,¹³ and only if a CLEC issues an exception for a missing notifier. The CLECs propose a one-week interval to resolve the exception, which they suggest is the maximum interval to retain a customer. They also point out that in Verizon's retail process, there is no three-day waiting period before a missing notifier is investigated.

The CLECs agreed that if notifiers were changed so that each succeeding notifier would contain the same and additional information, a subsequent notification could resolve an exception. However, this resolution would not be appropriate for a missing Firm Order Confirmation, because a jeopardy notice would not contain the relevant information.

In the past, we have set standards that exceed current performance in order to drive performance to acceptable levels. We find the need to do so here. The current exception process cannot be considered proactive, when it relies upon CLECs to identify a notification failure. This process affects customers and warrants our concern. A monthly exception rate of over 2.5% is unacceptable. We will adopt the CLECs' proposed standards of 95% in 3 business days and 99% in 10 business days. We further agree that a proactive process to

¹² MetTel describes its monthly churn rate as the number of customers lost during the month. The churn rate for exceptions would be the number of customers lost on exceptions compared to the number of customers on exceptions.

¹³ To prevent needless exception reports, Verizon requested and CLECs have agreed not to issue exception reports for a reasonable time after a notifier is missing.

track notifiers is needed to insure quality control, and we will require Verizon to report how such a tracking system will be implemented. The report should accompany the compliance filing.

We understand that Verizon resources and electronic processes may need to be modified. Accordingly, we will not expect Verizon to be held to these standards until February 2002 when the agreed changes to the notifiers will also take effect. Department Staff will monitor the exceptions to determine if the number declines as the new process is fully implemented leaving the more difficult exceptions to be resolved. We may revisit the interval for the 95% standard if the amount of exceptions declines.

We will permit Verizon to count the jeopardy notification as an acceptable resolution to a missing notifier. We direct the Carrier Working Group to develop more fully what information should be included in the jeopardy notice and report to us its recommendations.

Timeliness of Completion Notification

The current OR-4 submetrics largely capture performance of Verizon's internal systems for workforce administration, service orders, and billing. The CLECs have found that the current measures do not provide data that is useful in running their businesses. The Carrier Working Group has reached consensus on replacement submetrics but not on the appropriate standards.

1. OR-X Order Completion Timeliness (PCN)

This proposed metric measures the timeliness of transmitting a Provisioning Completion Notice (PCN) to the CLEC after the order has been physically provisioned. The CLEC thus knows when it has the responsibility to serve a customer. The parties disagree on: (1) the interval to provide the PCN and

whether it should be measured in business days or system days¹⁴; and (2) whether loop orders should be excluded from the measure.

Verizon proposes to provide 95% of PCNs within two business days with loop orders excluded. The company states that not all order completion notices are provided electronically, that some orders require manual work that can only be done on a normal business day, and that this manual work may take longer than a single business day. The company also contends that the batch process it uses could prevent orders from completing in a single day.

Verizon proposes use of business days rather than system days because there are some orders needing manual processing which are worked only on business days. While manual orders worked on a business day may be processed during that evening's system hours, Verizon counts the notifiers as sent the following business day.

Finally, the company states that loop order completions are entered manually into the processing system and require at least one business day. Because loop orders require live communication with CLECs to complete provisioning, Verizon contends the CLECs already know when they are completed.

The majority of CLECs propose that 95% of PCNs be provided within one system day with no exclusion for loop orders¹⁵. They contend that orders that may require manual

¹⁴ Business days are normal workdays when personnel are available. System days are the operating times of Verizon's electronic systems. Except for short, scheduled downtimes, system days are 24 hours per day, 7 days a week.

¹⁵ One CLEC proposed a two business day interval with an exclusion for loop orders. Three CLECs also proposed an alternative with different standards for dispatched and non-dispatched orders. We do not find the proposed alternatives acceptable.

intervention are a subset of dispatched orders, a category comprising only 4% to 6% of the total. CLECs argue that standards should not be set for worst-case scenarios and that the 5% leeway provides ample allowance for such instances.

The CLECs point out Verizon provides no supporting data and that their data indicate that Verizon is already providing more than 95% of PCNs in one system day. CLECs state that, because Verizon's processing systems operate during evening and weekend hours and PCNs are received during these periods, the standard should be in system days.

CLECs also note that Verizon incongruously cites loop orders as a reason for extending the interval but, on the other hand, wants to exclude them from the measure. They state that notifiers for loop orders (about 0.02% of the total) should not be excluded because they use the same system as other orders. Any additional time needed for loop orders is not a process problem but a resource management issue.

Verizon has provided only anecdotal examples of situations that might delay issuance of PCNs. Based on the CLECs' data, such instances comprise a small percentage of total orders. The standard should not be set to accommodate an infrequent worst-case scenario. Verizon should provide 95% of PCNs in one business day.

We decline to order the use of system days for this metric. Orders completed on a Friday requiring manual intervention would likely fail unless Verizon extended its work center hours. This would not be an efficient use of resources to deal with a minor portion of orders. In addition, using system days implies the need for hourly tracking due to the scheduled down times of the system; further complicating how manual work and the timing of batch processes would effect reported performance. These problems have not been adequately

addressed and until they are explored further, the business day standard should be retained.

There shall be no exclusion for loop orders. The CLECs correctly point out that Verizon cannot cite loop orders to support its case for a longer interval and then argue to exclude them. Verizon has provided no data to demonstrate any material adverse effect on interval performance due to loop orders. Neither does the argument that CLECs already know that loops are provisioned before the notifier is sent support their exclusion. A CLEC's field staff knowledge of when a loop is provisioned does not obviate the need to notify the CLEC's operational systems.

2. OR-X Order Completion Timeliness (BCN)

This proposed metric measures the timeliness of transmitting a Billing Completion Notice (BCN) to the CLEC after the order has been entered as complete into Verizon's Service Order Processor (SOP). The CLEC thus knows it can begin billing and that its customer will not be double-billed. The parties disagree on the interval to provide the BCN and whether it should be measured in business or system days.

Verizon proposes to provide 95% of BCNs within three business days. The company explains that its billing system update is an evening batch process, and that if an order fails to complete in SOP prior to the cutoff time, it will not enter the billing completion process until the following day. Additionally, if an order has a Post Completion Discrepancy (PCD), it drops out for manual correction and must be rerun with the next day's batch. An order with multiple PCDs may need to repeat the cycle. Verizon contends these events are out of its control.

The majority of CLECs propose that 95% of BCNs be provided within one system day (consistent with their position

on PCNs)¹⁶. They state that Verizon wants the standard to accommodate the infrequent exception, rather than the norm, and that PCDs occur on less than 1% of orders. CLECs note that Verizon has provided no data to support its position and that it has provided over 99% of BCNs in three business days according to its Performance Assurance Plan (PAP) reports. MetTel and AT&T estimate that Verizon has been providing 95-96% of BCNs in three system days. AT&T estimates Verizon has been providing 92.5% of BCNs in two system days and that imposition of the CLEC's proposed standard would motivate Verizon to improve its performance.

The CLECs correctly note that PAP-reported performance for BCNs in three business days is high, averaging over 99% since the beginning of 2001 and over 99.5% for the last four months. In light of this reported performance, coupled with Verizon's failure to provide any data to support its proposed interval, we will set the standard at 95% of BCNs to be provided within two business days. Consistent with our rationale for the PCN metric, we decline to order a shift to system days.

3. Percent Completed Orders Without a PCN or BCN Sent

This proposed metric (similar to current submetric OR-4-11) reports those instances where the CLEC receives neither the PCN nor the BCN. The parties disagree on: (1) the percentage of allowable instances; and (2) the interval and whether it should be measured in business or system days.

Verizon proposes a 5% allowance and a three business day interval (consistent with its position on the BCN provision interval). The company contends that because its billing system update is dependent on SOP completion, the creation of a

¹⁶ One CLEC proposed a two or three business day interval.

BCN is highly dependent on the creation of a PCN. In most cases where a BCN is missing a PCN is also missing. Verizon notes that the standards for the current OR-4-11 submetric are 5% and three business days.

The CLECs propose a 0.25% allowance and a two system day interval (consistent with their position on the BCN provision interval). They contend that their proposal is a proper calculation of the probability of the occurrence of both events using the 5% allowance for each one. The CLECs point out that Verizon's proposed 5% allowance implies a 77.5% standard for the PCN and BCN measures.

Consistent with the interval set for the BCN metric, we establish the same two business day interval here. Verizon is incorrect that the BCN is dependent on the PCN. After an order has SOP completed, the generation of the PCN and the BCN are independent events. The CLECs' method of calculating the probability of delivery of neither the PCN nor the BCN is thus correct, and we adopt the 0.25% allowance.

DSL Line Sharing/Line Splitting
Provisioning Interval Standard

Beginning in March 2001, the Commission directed Verizon to provision CLEC line shared loops in the lesser of three days or in parity with Verizon Advanced Data, Inc. (VADI).¹⁷ This standard was incorporated into the PAP but has not been included in the Carrier to Carrier Guidelines. CLECs unanimously favor inclusion of a standard of the lower of three days or parity with VADI, Verizon's DSL affiliate. Verizon opposes the use of both a parity and absolute standard. Verizon states that a parity standard is normally used when an analogous Verizon retail function exists. Verizon argues its affiliate, VADI, offers a retail analog, and thus, installation

¹⁷ Case 00-C-0127, Proceeding to Examine Digital Subscriber Line Services, Opinion No. 00-12, pp 6-7.

performance for VADI should be used to measure performance to competitors. Moreover, Verizon does not see a basis to distinguish DSL services from other products for which parity standards and interval measures have been established.

We remain concerned that the development of a competitive market for DSL services will be inhibited by long provisioning intervals. The rationale for the dual standard we set in Case 00-C-0127 applies equally to the Carrier-to-Carrier Guidelines, and we direct Verizon to include the provisioning interval standards in the Inter-Carrier Telephone Service Quality Guidelines consistent with our determination in that case.

Statistics Subgroup Issues

The Commission's December 15, 2000 order directed the Carrier Working Group to address various statistical testing issues and report to us with recommendations. The Carrier Working Group recommends further minor modifications to Appendix K of the Guidelines. Appendix K describes the statistical testing procedures to be used for comparing performance for counted (metrics of proportions, such as percent measures) and measured variables (metrics of means or averages, such as mean time to repair). These statistical tests are the LCUG Z, the LCUG t, and permutation tests.¹⁸ Below we discuss some of these issues and the recommendations of the group.

¹⁸ LCUG refers to the Local Competitors User Group, which is comprised of competitive local exchange carriers. Prior to Verizon's entry into the long distance market, the statistics subgroup adopted the LCUG Z and LCUG t formulas for parity testing of large sample size counted and measured variable metric comparisons. At that time, we also adopted the permutation test as being a reasonable procedure for the parity testing of small sample size metric comparisons.

Permutation Test and Hypergeometric Distribution

The December 15, 2000 order required a high level summary of the steps necessary for performing the required permutation test and the hypergeometric distribution based variant of the permutation test. We directed that the summary be incorporated directly into the Carrier-to-Carrier Guidelines once the necessary steps are agreed upon and validated by the Statistics Subgroup. Use of these testing methods was to commence immediately after such validation.

Verizon notes that the automation of the permutation test for small sample size measured variable tests could best be done once it has completed its proposed metrics data warehouse. This test requires an analysis of the underlying, customer specific performance data. Since the December 15, 2000 order, Verizon has received vendor quotes regarding its data warehouse implementation effort. Verizon shall make quarterly progress reports to the Carrier Working Group regarding the status of its data warehouse development efforts. Verizon should automate the data warehouse based permutation test on measured variables within 60 days after completion of its data warehouse.

The hypergeometric distribution can be used to perform the equivalent of the permutation test for counted variables, without the need to query the underlying customer specific performance data. The statistics subgroup agreed to use a log-gamma function based routine to perform the hypergeometric test for small sample size, counted variable comparisons. After the results of the routine were validated by the statistics group, staff then attempted to integrate the log-gamma programming code developed by the subgroup directly into the computer spreadsheets that are used to create the Carrier-to-Carrier Guidelines monthly reports. The effort to fully automate the log-gamma function throughout these reporting spreadsheets continues.

Having been validated by the statistics subgroup, we expect the hypergeometric based test to be fully automated in the reporting spreadsheets. Verizon should completely automate

these small sample testing procedures for counted variables within 90 days of issuance of this order. We will expect implementation for Verizon's January 2002 performance report.

The recommendations of the Statistics Subgroup are shown in Attachment 2 to this order. We adopt them and direct that Appendix K to the Guidelines be corrected to reflect this order.

CONCLUSION

The consensus recommendations, including the administrative changes, of the Carrier Working Group, as discussed in and appended to this Order, are adopted. The modified and new metrics and standards we adopt here, with the existing guidelines, promote a competitive local exchange market. These modifications and new provisions shall become effective immediately. Reporting shall begin in January 2002, unless otherwise specified in this order. As directed, the Carrier Working Group and Statistics subgroup shall continue to address issues and report findings and recommendations to us. Verizon shall file compliance documents with the Commission within ten (10) days of the issuance of this order. These and future inter-carrier service quality guidelines do not supercede commitments in existing interconnection agreements unless the contract terms so specify, or the contracting parties have otherwise agreed to be bound by the guidelines.

The Commission orders:

1. The additional and revised metrics and standards set forth in, and appended to, this order are adopted.
2. Within ten days of the date this Order is issued, Verizon New York Inc. shall file with the Secretary (20 copies) and serve upon each party the ordered corrections, changes and additions to the Guidelines Document.
3. Verizon New York Inc. shall include with its compliance filing a report on the status of metric reporting, specifying dates for the reporting of all metrics.

4. Verizon New York Inc. shall file all reports as directed in this Order.

5. The proceeding is continued.

By the Commission,

(SIGNED)

JANET HAND DEIXLER
Secretary

ATTACHMENT

Section A - Administrative Changes to the Guidelines

Miscellaneous clarification changes made to beginning of Carrier to Carrier Guidelines

Change Proposed:

Added a Retail analog compare table to beginning of document, and removed all Retail Products lists from sub-metrics that have Retail products.

Rationale:

The table clearly lists the appropriate retail compare for all Resale and UNE products. This table is clearer than the existing Retail product lists previously included under each sub-metric.

Change Proposed:

Added a note regarding geographic reporting in NY. Verizon will remove disaggregated geographic reporting in NY C2C guidelines for PR-1, PR-3, PR-4, PR-5, PR-6, PR-8, PR-9, MR-2, MR-3, MR-4 and MR-5. Reporting at a state level is adequate. Verizon added a note to the beginning of the C2C guidelines to clarify that if a CLEC wants disaggregated reports, it only has to issue one request through its account manager. Once the request is received, Verizon will continue providing the disaggregated reports until the CLEC issues a discontinue notice through its account manager.

Rationale:

Clarifies that VZ will still provide disaggregated reports via interconnection agreements, and via special requests.

Change Proposed:

Added language to clarify that wherever Verizon references a url within the Carrier-to-Carrier guidelines, VZ will utilize the information found on the url at the time of the compliance filing. Appendix L has been modified; it no longer includes the standards web site. Appendix L now contains a copy of the information listed on the url reference at the time of compliance filing.

Rationale:

This ensures that Verizon will follow the processes agreed to at the time of filing, and prevents Verizon from making changes to the url without discussing them with the Carrier Working Group.

PO-1	Response Time OSS Ordering Interface	Products: EDI, CORBA, WebGUI
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Change Proposed:

Update the Definition Section. Clarify opening sentence by adding PO-1-09 to the Response Time paragraph to indicate that PO-1-09 is included in the Response Time. Also, update the Average Response Time paragraph to add PO-1-09 to the metrics impacted.

Rationale:

Clarification of language.

Change Proposed:

Update the Definition Section to add a note to the Time Out definition to clarify that Time Out definition applies to PO-1-08.

Rationale:

Definition clarification.

Change Proposed:

Update the PO-1 Methodology Section to change the July 4th language to Independence Day.

Rationale:

The holiday isn't always celebrated on the actual 4th of July, e.g., if the 4th falls on a Sunday, the holiday is celebrated on a Monday.

Change Proposed:

Update the Methodology Section to replace language that specifies Verizon's "New York" Enview system, with generic language (in other words, changed reference to Verizon's Enview).

Rationale:

EnView is used in all Verizon areas, not just New York.

Change Proposed

Update the Formula Section to add a note indicating that all Retail PO-1 sub-metrics and PO-1-07 use simulated transactions.

Rationale:

Verizon uses production data to report the CLEC aggregate PO-1 sub-metrics (except PO-1-07 which uses EnView), for Retail PO-1 sub-metrics, and for CLEC PO-1-07.

Change Proposed:

Update the footnote against VZ Retail in the Report Dimensions Section to specify that the footnote re: Parsed CSR applies to sub-metric PO-1-09.

Rationale:

Language accuracy.

Change Proposed

Update the Products Section to add a note next to WEB GUI to indicate that PO-1-09 does go through WEB-GUI and therefore, does not report WEB GUI results.

Rationale:

Clarification. Verizon uses production data to report the CLEC aggregate PO-1 sub-metrics (except PO-1-07 which uses EnView). Verizon uses EnView data for Retail PO-1 sub-metrics and for CLEC PO-1-07.

PO-2	OSS Interface Availability	Products: Maintenance Web GUI (RETAS/ Pre-ordering/Ordering WebGUI EDI CORBA, Maintenance – Electronic Bonding
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Change Proposed:

Update the Definition Section to specifically list the holidays that are excluded: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

Rationale:

Clarification.

Change Proposed:

Update the Definition Section to clarify the Non-Prime-Time hours. Change the last part of the sentence to read: including **all day** Sundays and Holidays.

Rationale:

Shows that 12:01AM to 5:59AM window does not apply to Sundays and Holidays.

Change Proposed:

Update the Definition Section to describe how PO-2 is calculated.

Rationale:

Clarification.

Change Proposed:

Update the Definition Section to add the CORBA and Maintenance EB interfaces to the sentence beginning with Separate Measurements.

Rationale:

All products should be listed in this sentence.

Change Proposed

Update the Methodology Section, second paragraph, to add the WEB GUI and CORBA interfaces to the first sentence.

Rationale:

Specifies on which interfaces EnView reports.

Change Proposed:

Update the Methodology Section, third paragraph to change any appearance of "EDI" to "interface". Also change second sentence to indicate individual interface availability.

Rationale:

Clarification.

Change Proposed

Specifically list the performance standard for the PO-2 sub-metrics: PO-2-02 \geq 99.5%; PO-2-03 = No standard.

Rationale:

Specification of performance standards for each sub-metric.

Change Proposed:

Update the Methodology Section so the example formula reflects the 18-hour prime-time period.

Rationale:

The prime time window is 18 hours but the formula presently listed in the document uses a 16-hour period. The update makes the example formula consistent with the actual window.

PO-3	Contact Center Availability	Products: RESALE, UNE
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Change Proposed:

Update the Definition Section to remove "Consistent with Proposed end user standard" from the Note.

Rationale:

This note is not necessary.

Change Proposed:

Update the Performance Standard Section to list the standards for each sub-metric: PO-3-02 and PO-3-04 = 80% within 30 seconds.

Rationale:

Specification of performance standards for each sub-metric.

Change Proposed:

Update the Performance Standard Section to remove reference to Order Entry Assistance, System Administration, and Billing and Collections centers.

Rationale:

These centers are not included in this metric.

Change Proposed

Update the Performance Standard Section to add the url link to Verizon's Centers hours of operations.

Rationale:

Verizon Center hours of operation removed from this section (see Appendix L).

Change Proposed:

Update the Performance Standard Section to correct the hours of operations for the Order Processing Assistance Center. The correct hours are 08:00AM – 6:00PM Monday through Friday.

Rationale:

The hours listed in the guidelines were incorrect

Change Proposed:

Update the Report Dimension Section to list all states included in "Verizon East" and all states included in "Verizon North".

Rationale:

Identifies "East" and "North" states.

PO-4	Timeliness of Change Management Notice	Products: All
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Change Proposed:

Update the Performance Standard Section to list the standards for each sub-metric: PO-4-01 = 95%; PO-4-02 = No standard; PO-4-03 = No delayed notices and documentation over eight days.

Rationale:

Specification of performance standards for each sub-metric.

Change Proposed:

Update the Performance Standard Section to add a note that the Timeliness standards for the PO-4 sub-metric products are listed in the Timeliness Standards Section of the document.

Rationale:

Clarification.

Change Proposed:

Update the Timeliness Standard Section to remove the extra parentheses after the technical specifications.

Rationale:

Aesthetic correction.

Change Proposed

Add a report dimension to PO-4. Company is CLEC Aggregate. Geography is Verizon North. Also listed out all states considered as Verizon North.

Rationale:

Clarification.

PO-5	Average Notification of Interface outage
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Change Proposed:

Update the Definition Section to add language to specify when notifications are sent.

Rationale:

Clarification.

Change Proposed:

Update the Geography Section to list all states included in "Verizon North".

Rationale:

Identifies "North" states.

PO-6	Software Validation
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Change Proposed:

Update the Definition Section to add language that the test deck is executed 3X per year (Feb, June and Oct). The observations are the combined total of the LSOG2/3 scenarios plus the LSOG4 scenarios. The performance is populated with the score. All months where VZ does not execute the test deck will be populated with R3 on the C2C template to indicate "Run 3X per year".

Rationale:

Clarification of language.

Change Proposed:

Change reference to LSOG2/4 to "two current LSOG versions".

Rationale:

Makes language generic so document will not reference outdated LSOG versions.

Change Proposed:

Add A Report Dimension column. Company is CLEC Aggregate. Geography is the New York test deck.

Rationale:

Clarification.

Change Proposed:

Update Performance Standard Section: PO-6-01 \leq 5%.

Rationale:

Clarification.

PO-7	Software Problem Resolution Timeliness
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Change Proposed:

Update the Exclusions Section to indicate that Failed Transactions are reported to the Help Desk.

Rationale:

Clarification.

Change Proposed:

Add A Report Dimension column. Company is CLEC Aggregate. Geography is the Verizon East for PO-7-01 through 7-03; PO-7-04 geography is New York.

Rationale:

Clarification.

Change Proposed:

Update Performance Standard Section: PO-7-01 \geq 95%; PO-7-02 and PO-7-04 = 48 hours; PO-7-03 = 10 days.

Rationale:

Specification of performance standards for each sub-metric.

PO-8	Manual Loop Qualification
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Change Proposed:

Change PO-8-01 metric title from Average Response Time – Manual Loop Qualification to: % On Time – Manual Loop Qualification

Rationale:

Changed metric title to be able to report against the 95% standard.

Change Proposed:

Changed PO-8-01 numerator to read as follows: Sum of manual loop qualification requests where the time from receipt of request for a manual loop qualification to the distribution of the loop qualification information is less than or equal to 48 hours.

Rationale:

Needed to clarify numerator to accurately measure the metric.

Change Proposed:

Change PO-8-02 metric title from Average Response Time – Engineering Record Request to: % On Time – Engineering Record Request

Rationale:

Changed metric title to be able to report against the 95% standard.

Change Proposed:

Changed PO-8-02 numerator to read as follows: Sum of Engineering Record Requests where the time from receipt of Engineering Record Request to the time of the distribution of the Engineering Record is less than or equal to 72 hours.

Rationale:

Needed to clarify numerator to accurately measure the metric.

OR-1	Ordering – Order Confirmation
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Change Proposed:

Update the Definition Section definition for Facility Checks. Clarify that LSRs only are contained in the PON Master File. Add language for UNE Specials Facility Checks.

Rationale:

Clarification to identify differences between ASRs and LSRs.

Change Proposed:

Update the Definition Section by changing the last sentence in the Resale and UNE section to state UNE Special and DS0 orders of more than five lines require a facility check.

Rationale:

Clarification.

Change Proposed:

Update the Definition Section to add language to clarify when an order is distributed.

Rationale:

Additional language clarifies the process.

Change Proposed:

Update the Performance Standard Section to list the standard for the sub-metrics.

Rationale:

Clarification.

Change Proposed:

Update the Performance Standard UNE Section to add note that 48 hour standard does not apply to Specials submitted via ASR (DS1 and above).

Rationale:

Clarification to identify differences between ASRs and LSRs.

Change Proposed:

Updated Exclusions Section: replaced "New York SOP" with "Verizon SOP"

Rationale:

The SOP system is the same for all the North states so New York specification is not necessary.

Change Proposed:

Update OR-1-04, and OR-1-08: remove ASRC from 1-04 title; remove DS1 and DS3 from OR-1-04 and OR-1-08 sub-metric products list; add a note to OR-1-04 to clarify that Resale DS1s and DS3s are received via LSRs.

Rationale:

These are "no facility check" metrics; DS1 and DS3s submitted via ASRs always get a facility check.

Change Proposed:

Updated OR-1-04 Resale products list. Added "Pre-qualified complex" after POTS.

Rationale:

Clarification.

Change Proposed:

Remove Specials Non-DS0, Non-DS1, and Non-DS3 from the UNE products list for metrics OR-1-04, and OR-1-08. Also update metric title for OR-1-08 to be LSRC instead of ASRC.

Rationale:

For OR-1-04, all UNE specials (with the exception of DS0s) are ordered via ASRs and all require facility checks. For OR-1-08, % On Time, No Facility Check, all ASRs require a facility check, and would not be included in this metric. Metric title should be LSRCs.

Change Proposed:

Update OR-1-06, and OR-1-10 UNE products list to clarify that Specials Non-DS0, DS1, and DS3 are in fact Non-DS0, Non- DS1, and Non-DS3.

Rationale:

Clarification.

Change Proposed:

Change the products list for OR-1-12 to read as follows: CLEC Trunks (> 192 and Unforecasted Trunks and Projects)

Rationale:

Clarification that Projects are included in the OR-1-12 number.

Change Proposed:

Change the numerator for OR-1-12 to read as follows: Number of orders confirmed within the specified interval for the product type.

Rationale:

Clarification. Makes language consistent with what is documented in the Performance Standard Section. Electronic orders are considered on time if within 10 days or less. Fax / Mailed orders have 24 hours added to the interval as documented in the performance standard.

Change Proposed:

Change the denominator for OR-1-12 to read as follows: Number of orders received (electronically and faxed) confirmed by product type.

Rationale:

Clarification. Verizon Trunking subject matter expert (SME) suggested this language to clarify how the orders are received.

Change Proposed:

Change the OR-1-19 numerator to read as follows: Number of requests for inbound Augment trunks with responses sent within the specified interval for product type.

Rationale:

Clarification. Verizon Trunking SME suggested this change to clarify how the orders are received.

OR-2	Ordering –Reject Timeliness
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Change Proposed:

Update the Definition Section to indicate that LSRs (only) are placed in the PON Master.

Rationale:

Clarification of difference between LSR and ASR.

Change Proposed:

Update the Definition Section to add language to specify when an order is considered distributed.

Rationale:

Additional language clarifies the process.

Change Proposed:

Update performance standard table to be in synch with OR-1. Add a note to UNE Special Services to indicate that the 48-hour standard does not apply to UNE Specials DS1 and above (submitted via ASR). Also add a note to clarify that Average metrics do not have a standard.

Rationale:

Clarification.

Change Proposed:

Update the metric title for OR-2-04 to remove ASR from the title. All ASRs require a facility check and are not included in the base.

Rationale:

Clarification.

Change Proposed:

Update the Exclusions Section to replace "New York SOP" with "Verizon SOP".

Rationale:

SOP hours are the same for all North states so state specification is unnecessary.

Change Proposed:

Update the OR-2-10 numerator to change confirmation date and time to reject date and time.

Rationale:

Clarification.

OR-3	Ordering – Percent Rejects
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Change Proposed:

Update Definition Section, 2nd paragraph, adding: language to specify that the Ordering Interface is the Verizon Ordering Interface; notation that the PON Master File applies to LSRs only; and language indicating that Edit Rejects are not placed in the PON Master file and therefore not included in the calculation.

Rationale:

Clarification.

Change Proposed:

Change OR-3-02 metric title to % Resubmission Not Rejected.

Rationale:

The present title is misleading.

OR-5	Ordering – Percent Flow-Through	
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Change Proposed:

Update the Definition Section to add the same language as note in OR-3 indicating the PON Master File applies to LSRs only.

Rationale:

Clarification.

Change Proposed:

Update the entire OR-5 to remove any ASR language.

Rationale:

This metric was designed to measure LSRs and the ASR language should not have been added.

Change Proposed:

Update the Performance Standard Section: OR-5-03 standard = 95%; OR-5-01 = No Standard.

Rationale:

Specify standard for each sub-metric.

Change Proposed:

Remove pending orders from the exclusion of OR-5-03 % Flow - Through Achieved and update Definition Section to remove reference to pending orders from sentence that begins with Appendix H.

Rationale:

Should have been removed from the December 2000 compliance filing.

OR-6	Order Accuracy
-------------	-----------------------

Change Proposed:

Add language to Definition Section to be consistent with Appendix M that specifies states included in the samples.

Rationale:

Geography included in reported metrics was unclear; this language is consistent with what is presently reported on the C2C reports.

OR-7	Ordering – % Order Confirmation /Rejects within 3 days
-------------	---

Change Proposed:

Add metric name to table for OR-7-01.

Rationale:

Aesthetic change.

Change Proposed:

Update Definition Section to add UNE Loop and UNE Platform to opening sentence.

Rationale:

Clarification.

Change Proposed:

Change language in OR-7-01 numerator to read: Total LSR confirmations and/or rejections.

Rationale:

Clarification.

OR-8	Ordering – Acknowledgement Timeliness
-------------	--

Change Proposed:

Change geography to be state specific.

Rationale:

Clarification.

OR-9	Ordering – Acknowledgement Completeness
-------------	--

Change Proposed:

Change geography to be state specific.

Rationale:

Clarification.

PR-1	Provisioning – Average Interval Offered
-------------	--

Change Proposed:

Update the Performance Standard Section to list each sub-metric and its standard. PR-1-01 through PR-1-09 and PR-1-12 (except PR-1-01 and -02 UNE 2Wire xDSL Loops) = Parity with VZ retail. Metrics PR-1-01 and -02, UNE 2W xDSL Loops = No Standard.

Rationale:

Specification of standard for each sub-metric.

Change Proposed:

Update the Performance Standard Section: PR-1 and PR-2 for DSL Loop = No Standard; for Line Sharing = Parity with VADI. Fix spacing.

Rationale:

Specification of standard for each sub-metric.

PR-3	Provisioning – % Completed within X Days
-------------	---

Change Proposed:

Update the Performance Standard Section: PR-3-01, 3-03, 3-06, 3-08, 3-09, and 3-10 (except PR-3-03, UNE 2 Wire xDSL Line Sharing and PR-3-10, UNE 2 Wire xDSL Loops) = Parity with VZ Retail; PR-3-03 and 3-11 UNE 2 Wire xDSL Line Sharing = Parity with VADI; PR-3-10 and 3-11 UNE 2 Wire xDSL Loops = 95%.

Rationale:

Specification of standard for each sub-metric.

Change Proposed:

Update Exclusion Section to specify that the exclusion for facility missed orders applies to 2W Digital, 2W xDSL Loop and 2W xDSL Line Sharing only.

Rationale:

Clarification.

Change Proposed:

Update Exclusion Section to indicate that the manual loop qualification exclusion applies to sub-metrics PR-3-03, and PR-3-10 only.

Rationale:

Clarification.

Change Proposed:

Update Performance Standard Section to state that the xDSL Loop 95% standard also applies to PR-3-11 (presently only 3-10 is listed).

Rationale:

Clarification.

Change Proposed:

Update Performance Standard Section to add the exact Verizon web site url for product intervals (see Appendix L).

Rationale:

The specific reference simplifies finding the product interval.

Change Proposed:

Removed line sharing from the UNE product list for sub-metrics PR-3-10, and PR-3-11.

Rationale:

Line sharing interval is 3 days, and is not included in the 3-10, six-day, and 3-11 nine-day measurements.

Change Proposed:

Removed line sharing footnotes from PR-3.

Rationale:

Line sharing interval is now 3 days so outdated information for 4-day interval is no longer necessary.

PR-4	Provisioning --% Missed Appointments
-------------	---

Change Proposed:

Update the Performance Standard Section: PR-4-01, 02, 04, and 05 (except PR-4-04, UNE 2 Wire xDSL Loops) = Parity with VZ Retail. Retail Comparison for UNE IOF is Retail DS3 and for UNE EEL is Retail DS1. Retail Comparison for Metric PR-4-02 UNE 2 Wire xDSL Loops is Retail Specials DS0. Standards: PR-4-07 LNP = 95% on Time; PR-4-04 UNE 2 Wire xDSL Loops <=5%; PR-4-14 UNE 2 Wire xDSL Loops = 95% on Time; PR-4-03 and -08 = No Standard.

Rationale:

Specification of standard for each sub-metric.

Change Proposed:

Add "trunks" to description of sub-metrics PR-4-01 and PR-4-02.

Rationale:

Clarification.

Change Proposed:

List DS1 under the Retail products list for PR-4-02 and PR-4-03.

Rationale:

DS1 is the retail compare for EEL

Change Proposed:

Add DS3 under PR-4-02 Retail Products.

Rationale:

Compare group for EEL.

Change Proposed:

Add DS1 under PR-4-03 Retail Products.

Rationale:

Compare group for IOF.

Change Proposed:

Specify that the PR-4 exclusion for facility reasons only applies to 2W xDSL Loop, 2W xDSL Line Sharing, and 2W Digital.

Rationale:

Clarification.

Change Proposed:

PR-4-05 - Remove Hot Cut from the list of UNE products.

Rationale:

Hot cuts are already covered under PR-9.

Change Proposed:

Add trunks to numerator and denominator for PR-4-01, 4-02 and 4-03.

Rationale:

Clarification.

Change Proposed:

Add DS3 under PR-4-02 Retail Products.

Rationale:

Compare group for EEL.

Change Proposed:

Expand title for metrics PR-4-09 through PR-4-13.

Rationale:

Clarification.

Change Proposed:

Change all PR-4-14 references to 2W xDSL services to 2Wire xDSL Loops.

Rationale:

Clarification.

Change Proposed:

Add language to the PR-4-14 denominator to clarify that customer misses are excluded from the base of completed orders.

Rationale:

Clarification.

PR-5	Provisioning – % Facility Missed Orders
-------------	--

Change Proposed:

Update Definition Section to remove “Orders” from Facility Missed Orders/Trunks definition.

Rationale:

Clarification.

Change Proposed:

Add trunks to numerator and denominator for PR-5-01, 5-02 and 5-03.

Rationale:

Clarification.

Change Proposed:

Add a note to the PR-5-03 Trunks to indicate that trunks are not dispatched and cross reference it back to the Definition Section that states facility missed trunks are those that complete after the commitment date where the cause of the delay was due to lack of facilities.

Rationale:

Clarification.

PR-6	Provisioning –% Installation Quality
-------------	---

Change Proposed:

Update Exclusions Section to add note to indicate that 2W xDSL exclusion applies to PR-6-01.

Rationale:

Clarification.

Change Proposed:

Update Exclusions Section to remove cooperative testing statement.

Rationale:

These are not excluded.

Change Proposed:

Update Performance Standard Section: PR-6-01 and 02 (except PR-6-02 UNE POTS – Loop Hot Cut) = Parity with VZ Retail For Found Troubles. For PR-6-01 UNE 2 Wire xDSL Loops, the comparison is to Retail POTS-Dispatch. PR-6-02, UNE POTS – Loop Hot Cut Loops - % Installation Troubles Reported within seven (7) Days = 2%; PR-6-03 = No Standard.

Rationale:

Specification of standard for each sub-metric.

PR-8	Provisioning –Open Orders in a Hold Status
-------------	---

Change Proposed:

Update the Performance Standard Section: EEL compare is Specials DS1; IOF compare is Specials DS3.

Rationale:

Clarification.

Change Proposed:

Update the Performance Standard Section: 2W xDSL Loops retail compare is Specials DS0.

Rationale:

Clarification.

Change Proposed:

Update the Performance Standard Section: 2W xDSL Line Sharing compare is parity with VADI.

Rationale:

Clarification.

PR-9	Provisioning – HOT CUTS
-------------	--------------------------------

Change Proposed:

Update the Performance Standard Section: PR-9-08 = No Standard; remove reference to 9-02 through 9-07.

Rationale:

Clarification; VZ does not have sub-metrics 9-02 through 9-07.

Change Proposed:

Remove the specials language from the PR-9-08 numerator.

Rationale:

Hot Cut loops are POTS loops by definition.

Change Proposed:

There are two descriptions for PR-9-01 listed in the guidelines. Move the note contained in the 2nd definition to the 1st appearance, and remove the 2nd appearance of the definition.

Rationale:

No need for two definitions in guidelines.

Change Proposed:

Update the PR-9-01 Definition Section to clarify the note as follows: Orders disconnected early and orders cancelled during or after a defective cut due to Verizon reasons are considered not met.

Rationale:

Clarification.

MR-1	Maintenance & Repair –Response Time
-------------	--

Change Proposed:

Update the Definition Section to clarify what is counted in the measurements.

Rationale:

Clarification.

Change Proposed:

Update the Methodology Section; remove 8-5 earlier version notation. The methodology is 8-5 seven days week; no holiday exclusions.

Rationale:

Clarification.

Change Proposed:

Update the Methodology Section to indicate that the retail measurement for metrics MR-1-01 and MR-1-03 is a combination of Create and Modify because the two transactions cannot be disaggregated for retail.

Rationale:

Clarification.

Change Proposed:

Change geography to be state specific. Add note indicating that all sub-metrics are state specific except MR-1-06 which will be reported as a NE number (for NE states) or as a combined NY / CT number for NY and CT. This number cannot be state specific due to system constraints.

Rationale:

Geography should be reported at a state level wherever applicable.

MR-2	Maintenance & Repair –Trouble Report Rate
-------------	--

Change Proposed:

Update the Performance Standard Section. Add MR-2-04 to beginning of % Subsequents; indicate there is no standard for MR-2-04. Add MR-2-05 in front of % CPE/TOK/FOK reports; indicate there is no standard for MR-2-05.

Rationale:

Clarification to standards.

Change Proposed:

Update the Performance Standard Section to specify that there are no standards for MR-2-04 and MR-2-05.

Rationale:

Clarification.

Change Proposed:

Update MR-2-01 numerator. Removed (trbl cd is FAC or CO).

Rationale:

This is coding language not necessary for the Definition Section of the C2C guidelines.

Change Proposed:

Add a bullet to specials in the Resale products list. Update MR-2-05 numerator to add not found troubles (NFT) for specials to numerator.

Rationale:

Specials should be a separate bullet. Clarification of numerator definition.

MR-3	Maintenance & Repair – Missed Repair Appointments
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Change Proposed:

Update the Performance Standard Section to add MR-3-03 = No Standard.

Rationale:

Clarification of standards.

MR-4	Maintenance & Repair – Trouble Duration Intervals
-------------	--

Change Proposed:

Add white space to Definition Section; remove coding language.

Rationale:

Aesthetic change; removal of coding language does not impact metric and is not required.

MR-5	Maintenance & Repair – Repeat Trouble Reports
-------------	--

Change Proposed:

Updated the Exclusions Section to remove colon between “are” and “subsequent”.

Rationale:

Aesthetic change.

NP-1	Network Performance – Percent Final Trunk Group Blockage
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Change Proposed:

Update the Definition Section to remove the word “access” from tandem in the last sentence of last paragraph.

Rationale:

Language applies to more than access tandems.

NP-2	Network Performance - Collocation
-------------	--

Change Proposed:

Update Performance Standard Section: NP-2-04, 2-07 and 2-08 = No Standard.

Rationale:

These are averages and do not have a standard.

Change Proposed:

Update Performance Standard Section to add a note to indicating that the performance standard for the collocation metrics is based on the state tariff in effect; add the state tariff url.

Rationale:

Clarification. Removed Appendix L url. Collocation intervals are listed in individual state tariffs.

BI-1	Billing – Timeliness of Daily Usage Feed
-------------	---

Change Proposed:

Update Performance Standard Section to list standards for all BI-1 sub-metrics.

Rationale:

Specification of standard for each sub-metric.

Change Proposed:

Update Exclusions Section to remove bullet and add exclusion for VZ test records.

Rationale:

Aesthetic change and clarification.

BI-2	Billing – Timeliness of Carrier Bill
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Change Proposed:

Update Exclusions Section to remove bullet and add exclusion for VZ test records.

Rationale:

Aesthetic change and clarification.

Appendix D	Bona Fide Request Process
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Change Proposed:

Remove Appendix D from guidelines and reserve for future use.

Rationale:

The Bona Fide Request process is not referenced anywhere within the C2C document, and can be found in individual state tariffs.

Appendix L	Product Interval Summary to be renamed “URL Reference Guide”
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Change Proposed:

Remove reference to Product Interval Summary and Product Specifications url and insert copies of information contained in web-site references that appear in the C2C guidelines document.

Rationale:

The web-site information in Appendix L will provide a record what is in effect (on the web-site) at the time of the compliance filing.

Appendix O	Test Deck – Weighted Transaction Matrix
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Change Proposed:

Update Appendix O, which contains the most recent test-deck weighting information.

Rationale:

Appendix O filed with the original filing is outdated.

Section B – Best Metrics Sub-Group Consensus Items

PO-2-01	OSS – Interface Availability - Total	Products: EDI, CORBA, WebGUI
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Changed Proposed:

Eliminate this measure, as it is the total of the two sub-metrics, PO-2-02 and PO-2-03.
(Note: While there is currently no standard for PO-2-03, the Carrier Working Group has agreed to discuss one at future meetings.)

Rationale:

Redundant metric.

PO-3-01	Average Speed of Answer – Ordering	
PO-3-03	Average Speed of Answer – Repair	

Changed Proposed:

Eliminate.

Rationale:

PO-3-02 and PO-3-04 (% Answer within 30 Seconds) are better measures.

PO-4-01	% On Time Change Management Notice	Products:
PO-4-02	Change Management Delay (1-7 days)	ALL
PO-4-03	Change Management Delay (8+ days)	

Changed Proposed:

Collapse measures to report: Change Notification as Types 1 (Emergency Maintenance), Type 2 (Regulatory) and Combined Type 3/4/5 (Industry Standard/Verizon Originated/CLEC Originated); and Change Confirmation as Type 2 and Combined Type 3/4/5.

Rationale:

There are currently nine metrics per measure. Collapsing them will eliminate 12 metrics, consistent with PAP requirements and standards that apply to each.

PO-8-01	Average Response Time –Manual Loop Qualification.	Products:
PO-8-02	Average Response Time – Engineering Record Request	ALL

Changed Proposed:

Change the name of both measures to be % on Time, with appropriate changes to numerator and denominators to be consistent with a 95% standard.

Rationale:

Eliminates an inconsistency between the performance standard (of 95% on time) and the measure reported (“average” instead of “% on time”) that was not intended when the measure was created by the CWG.

OR-1-01	Average Local Service Request Confirmation (LSRC) Time (Flow-Through)	Products: ALL
OR-1-03	Average LSRC Time – No Facility Check (Electronic sub no flow-thru)	
OR-1-05	Average LSRC/ASRC Time – Facility Check (Electronic – no flow-thru)	
OR-1-07	Average ASRC Time – No Facility Check (FAX/Mail)	
OR-1-09	Average ASRC Time – Facility Check (Fax/Mail)	
OR-1-11	Average Firm Order Confirmation (FOC) Time	

Changed Proposed:
Eliminate.

Rationale:

These are average measures for which there are no standards.
(Note: Verizon agrees to provide data on averages or distribution of performance as requested on a periodic basis by the CWG in a special report should the group desire to investigate performance standards. Verizon will retain raw data for a minimum of 12 months should any studies be required. All requests to Verizon will be made in advance to enable sufficient time to prepare special reports to be used for discussion purposes.)

OR-2-01	Average Local Service Request (LSR) Reject – Time (Flow-Through)	Products: ALL
OR-2-03	Average LSR/ASR Reject Time – No Facility Check (Electronic no flow-through)	
OR-2-05	Average LSR/ASR Reject Time – Facility Check (Electronic – No Flow-through)	
OR-2-07	Average Reject Time – No Facility Check (Fax)	
OR-2-09	Average Reject Time – Facility Check (Fax)	
OR-2-11	Average Trunk ASR Reject Time	

Changed Proposed:
Eliminate.

Rationale:

These are average measures for which there are no standards.
(Note: Verizon agrees to provide data on averages or distribution of performance as requested on a periodic basis by the CWG in a special report should the group desire to investigate performance standards. Verizon will retain raw data for a minimum of 12 months should any studies be required. All requests to Verizon will be made in advance to enable sufficient time to prepare special reports to be used for discussion purposes.)

OR-3-01	% Rejects	Products: Resale and UNE
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Changed Proposed:

Change the denominator language to be “total number of records received” and remove reference to unique PONs.

Rationale:

The current performance measure takes rejects as a percent of orders confirmed. The better measure is rejects as a percent of all transactions (rejects plus confirms).

OR-5-02	% Flow Through - Simple	Products: Resale and UNE
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Changed Proposed:

Eliminate.

Rationale:

This measure has not provided meaningful information and should be deleted. Flow through is adequately covered by OR-5-01 and OR-5-03.

OR-6-01	% Accuracy Orders	Products: Resale, UNE Loop & UNE P
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Changed Proposed:

Cease checking application date field for accuracy; update Appendix M.

Rationale:

The actual receipt date and time from the first confirmed LSR is now used for metrics calculation making the application date field meaningless for any purpose.

OR-6-02	% Accuracy – Opportunities	Products: Resale, UNE Loop & UNE P
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Changed Proposed:

Eliminate.

Rationale:

This metric as it has not proven to provide meaningful information whereas OR-6-01 addresses performance on an order basis.

(Note: CWG has agreed to discuss, at future meetings, a transition to a 100% comparison of LSRs to both LSRCs and BCNs.)

PR-1-01	Average Offered Interval – No dispatch	Products: Hot Cut Loop
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Changed Proposed:

Eliminate.

Rationale:

Creation of a new metric PR-3-08 % Completed in 5 days provides a better measure for intervals on this type of service.

PR-1-01	Average Offered Interval – No dispatch	Products: Resale & UNE
PR-1-02	Average Offered Interval – Dispatch	Specials; UNE-POTS-Other

Changed Proposed:

Eliminate these sub-metrics for these products.

Rationale:

These are redundant measures with the disaggregation of Specials into DS0, DS1 and DS3. UNE-POTS-Other will be replaced by Line Splitting.

PR-2	Average Interval Completed	Products -ALL
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Changed Proposed:

Eliminate all PR-2 sub-metrics.

Rationale:

There is no standard for these average measures. Performance on offered interval is covered by PR-1. Performance on meeting those intervals is covered by PR-3 % Completed Within Specified Days and PR-4 % Missed Appointments.

(Note: Verizon agrees to provide data on averages or distribution of performance as requested on a periodic basis by the CWG in a special report should the group desire to investigate performance standards. Verizon will retain raw data for a minimum of 12 months should any studies be required. All requests to Verizon will be made in advance to enable sufficient time to prepare special reports to be used for discussion purposes.)

PR-3-02	% Completed in 2 days (1-5 lines) No Disp	Products: Resale POTS, UNE P, UNE Other (Switch INP)
PR-3-03	% Completed in 3 days (1-5 lines) No Disp	
PR-3-04	% Completed in 1 Day (1-5 lines) Dispatch	
PR-3-05	% Completed in 2 Days (1-5 lines) Dispatch	
PR-3-07	% Completed in 4 Days (1-5 lines) Total	
PR-3-08	% Completed in 5 Days (1-5 lines) No Disp	
PR-3-10	% Completed in 6 Days (1-5 lines) Total	

Changed Proposed:

Eliminate.

Rationale:

Not required for listed products. Note that PR-3-03 % Completed in 3 Days No Dispatch is retained for DSL Line Sharing and Line Splitting and PR-3-10 % Completed in 6 Days Total is retained for DSL Loops.

PR-3-08	% Completed in 5 Days (1-5 lines) No Disp	Products: Hot Cut Loop
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Changed Proposed:

Add measure for Hot Cut Loops.

Rationale:

Required to measure performance in meeting standard interval.

PR-3-06	% Completed in 3 Days (1-5 lines) Dispatch	Products: UNE Loop - New
PR-3-09	% Completed in 5 Days (1-5 lines) Dispatch	

Changed Proposed:

Add measures for New Loops

Rationale:

Required to measure performance in meeting standard interval.

PR-4-04	% Missed Appointment Dispatch	Products: Hot Cut Loop
PR-4-05	% Missed Appointment No Dispatch	

Changed Proposed:

Eliminate.

Rationale:

Performance for timeliness of Hot Cut loops is covered in PR-9.

PR-4-08	% Missed Appointment – Customer – Due to Late Order Confirmation	Products: Resale and UNE POTS Loop, UNE-P, and POTS/Other, 2 Wire xDSL Line Sharing
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Changed Proposed:

Eliminate.

Rationale:

Unnecessary for the specified products and difficult to measure.

(Note: measure will be continued for Specials, 2 Wire Digital and xDSL Loop.)

PR-5-03	% Orders Missed for Facilities > 60 Days	Products – Resale & UNE
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Changed Proposed:

Eliminate.

Rationale:

PR-8 % Open Orders in Hold Status > 30/90 Days is the better measure.

PR-6-02	% Installation Troubles within 7 days	Products: Resale POTS, UNE P and UNE Loop
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Changed Proposed:

Eliminate.

Rationale:

These are included in PR-6-01 % Installation Troubles within 30 Days. Note measure is retained for Hot Cut Loops.

PR-7-01	% Orders in Jeopardy Status	Products: EEL
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Changed Proposed:

Eliminate.

Rationale:

Metric not useful for only this single product.

(Note: CWG has agreed to assign high priority to development of more comprehensive jeopardy measures. Initial recommendation is to measure % of missed orders that have received a jeopardy notification.)

PR-9-09	% Supplemented or Cancelled Orders at Verizon Request	Products: Hot Cuts
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Changed Proposed:

Eliminate.

Rationale:

Unnecessary because Verizon does not request that CLECs supplement or cancel orders.

BI-1-01	% DUF in 3 Business Days	
BI-1-03	% DUF in 5 Business Days	
BI-1-04	% DUF in 8 Business Days	

Changed Proposed:

Eliminate.

Rationale:

These sub-metrics have no standard. Retain BI-1-02 % DUF in 4 Business Days. CLECs can replicate performance and track with DUF tapes.

NP3	Switching Performance	All Products
NP4	Notification of Network Outage	

Changed Proposed:

Eliminate these sections from the guidelines.

Rationale:

These metrics are not reported under the C2C guidelines.

Section C - Changes to Maintenance and Repair Metrics

Parties have discussed and agreed to changes in Verizon's maintenance and repair procedures relating to limited use of a "stop clock", no access to end user premises, and misdirected dispatches for unbundled network element loop troubles. With the changed process, the metrics must be modified so that troubles that are open longer, due to CLEC misdirection or while awaiting CLEC action, do not cause Verizon's performance to be erroneously reported. The changes recommended include:

- Remove the double-dispatch metrics from MR-3 (MR-3-04, and MR-3-05).
- Update language in MR-4 Trouble Duration Intervals; clarify that POTS Resale and Platform use a running clock basis.
- Clarify that MR-4 UNE Loop, UNE 2Wire Digital and UNE 2Wire xDSL Loop use a stop clock basis on dispatched out tickets only. The stop clock excludes weekend hours (from Friday at 5:00PM until Monday at 08:00AM).
- Remove double dispatch from MR-4 (MR-4-09 and MR-4-10).
- Update MR-5 exclusions to clarify that misdirected troubles are excluded from Loop troubles. Clarify that misdirected troubles are those that have no access disposition codes, and those where there are two troubles in opposite directions, and the first is NTF, FOK or CPE.

Section D - Line Splitting Metrics

Change Proposed:

Separately report Line Splitting performance for the following metrics:

Metric #	Service	Product	Metric Name	Change Required
PR-1-01 PR-1-02	UNE	Line Splitting	Average Interval Offered – Total No Dispatch Average Interval Offered – Total Dispatch	Disaggregate PR-1-01 metric for line splitting. This will replace the UNE Switch and INP Category. Disaggregate PR-1-02 metric for line splitting. Need to create a line splitting category.
PR-3-03	UNE	Line Splitting	% Completed in three days, 1 to 5 lines	Disaggregate PR-3-03 metric for line splitting. Need to create line splitting category. Same interval that applies to line sharing will apply to line splitting.
PR-4-02 PR-4-03 PR-4-04 PR-4-05	UNE	Line Splitting	Average Delay Days % Missed Appointment – Customer % Missed Appointment – Verizon Dispatch % Missed Appointment – Verizon No Dispatch	Disaggregate PR-4-02 through PR-4-05 for line splitting. Need to create a line splitting category.
PR-5-01	UNE	Line Splitting	% Missed Appointment – Verizon Facilities	Disaggregate for line splitting. Need to create a line splitting category.
PR-5-02	UNE	Line Splitting	% Orders held for facilities less than 15 days	Disaggregate for line splitting. Need to create a line splitting category.
PR-6-01 PR-6-03	UNE	Line Splitting	% Installation Troubles reported within 30 days % Installation Troubles reported within 30 days FOK/TOK/CPE	Disaggregate metrics for line splitting. Need to create a line splitting category.
PR-8-01 PR-8-02	UNE	Line Splitting	Open Orders in a Hold Status more than 30 days Open Orders in a Hold Status more than 90 days	Disaggregate metrics for line splitting. Need to create a line splitting category.
MR-2-02 MR-2-03 MR-2-04 MR-2-05	UNE	Line Splitting	Trouble Report Rate Loop Trouble Report Rate Central Office % Subsequent Reports % CPE/TOK/FOK Trouble Report Rates	Disaggregate metrics for line splitting. Need to create a line splitting category.

Metric #	Service	Product	Metric Name	Change Required
MR-3-01 MR-3-02 MR-3-03	UNE	Line Splitting	% Missed Repair Appointment Loop % Missed Repair Appointment Central Office % CPE/TOK/FOK Missed Appointment	Disaggregate metrics for line splitting. Need to create a line splitting category.
MR-4-02 MR-4-03 MR-4-04 MR4-07 MR-4-08	UNE	Line Splitting	Mean Time to Repair – Loop Trouble Mean Time to Repair – Central Office Trouble % Cleared within 24 hours % Out of service >12 hours % Out of Service more than 24 hours	Disaggregate metrics for line splitting. Need to create line splitting category for each metric.
MR-5-01	UNE	Line Splitting	% Repeat Reports within 30 days	Disaggregate metric for line splitting. Need to create line splitting category.

Change Proposed:

Report Line Sharing and Line Splitting **combined** for the following metrics:

Metric #	Service	Product	Metric Name	Change Required
OR-1-04 OR-1-06	UNE	Line Splitting	% On Time LSRC – No Facility Check (Electronic – No Flow-Through) % On Time LSRC/ASRC Facility Check (Electronic – No Flow-through)	Line Splitting will be included in the metrics reported for Line Sharing. (Note: a separate line splitting category will not exist).
OR-2-04 OR-2-06	UNE	Line Splitting	% On Time LSR Reject – No Facility Check (Electronic – No Flow-through) % On Time LSR/ASR Reject – Facility Check (Electronic – No Flow-through)	Line Splitting will be included in the metrics reported for Line Sharing. (Note: a separate line splitting category will not exist).

Placeholder for future discussions:

PR-9	UNE – Hot Cut Loops	Line Splitting		Will eventually need metrics like these to address the situation where the customer is switching DSL providers as part of a line splitting situation or where the CLEC is switching between UNE-P with line splitting to UNE-L with DSL offered on the UNE Loop. Placeholder needed for future metrics once migration processes are established.
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Section E - Consensus items on modifications to existing metrics

1. 2W xDSL Loop and 2W Digital proposals

Change Proposed:

PR-6 Installation Quality: Remove the exclusion for 2Wire xDSL Loop troubles reported by CLECs that do not participate in cooperative testing.

Rationale:

These transactions are no longer excluded.

Change Proposed:

PR-6 Installation Quality: Change the retail compare group for 2Wire Digital and 2Wire xDSL Loops to POTS dispatch.

Rationale:

Consensus that dispatched POTS troubles are similar to 2Wire Digital and 2Wire xDSL Loop troubles (which usually require dispatch).

Change Proposed:

MR-2 through MR-5 metrics: Change the retail compare for group for 2Wire Digital and 2Wire xDSL Loop to POTS-Total

Rationale:

Consensus that POTS-Total troubles are more similar (than VADI line sharing troubles) to 2Wire Digital and 2Wire xDSL Loop troubles.

2. MR-4 Mean Time to Repair proposals

Change Proposed:

Disaggregate Specials in to two categories: (1) non-DS0 and DS0; and (2) DS1 & DS3. The retail compare will remain the same non-DS0/DS0 and DS1/DS3.

Rationale:

Consensus for disaggregation.

3. Order Accuracy Proposal

<p>OR-6-01 OR-6-03</p>	<p>Order Accuracy - % Accuracy – Orders % Accuracy – LSRC</p>	<p>Products: Resale, UNE Loop and UNE Platform</p>
----------------------------	--	---

Change Proposed:

With LSOG4 and above orders, there is information on the LSRC and the BCN that allows Verizon to compare the initial LSR to the LSRC and to the BCN in a mechanized fashion for all orders. The Carrier Working Group will investigate the desirability of replacing the current sample methodology with a 100% comparison and recommends modifications of the guidelines to allow for this improved process.

Rationale:

Comparing 100% of orders as opposed to comparing a sample will produce a better measure of order accuracy.

4. PR-5 Facility Missed Orders Proposal

Change Proposed:

For UNE products (Loop, 2-Wire Digital, DSL Loop and Specials), add submetric PR-5-04 % of Orders Cancelled More Than Five Days After the Due Date.

Rationale:

Consensus that such orders cancelled for non-customer reasons are due to lack of facilities.

Section F - Collocation Augments

Specify language for physical collocation 45-day augment intervals in the NP-2 collocation section. Verizon will track physical collocation 45-day augments separately. Consensus language and an augment process timeline (as an appendix) will be added to the Carrier-to-Carrier guidelines. The 45-day augment interval applies to single augments of:

- 800 2W Voice Grade Terminations;
- or 400 4W Voice Grade Terminations;
- or 600 Line Share/Split Facilities;
- or 28 DS1 Terminations;
- or 24 DS3 Terminations;
- or 12 Fiber Terminations;
- or 2 Feeds (1A & 1B) DC power fused at 60 amps or less;
- or Conversion of 2W VG to 4W VG (min 100 - max 800)

where all pairs are spare and in consecutive 100 pair counts.

Section G - Notifier Metrics: Provisioning Completion Notice (PCN), Billing Completion Notice (BCN) and Purchase Order Number (PON) Exception Timeliness Measure)

The Carrier Working Group reached consensus on the language for the PCN, BCN and PON Exception Timeliness metrics based upon the addition of fields to the current notifiers received by the CLECs. This will enable the CLECs to do their own auditing. The changes to the notifiers are scheduled to be available in the February 2002 OSS release. The completion date currently on the PCN (also known as DTM 198 for PCN) will be added to the BCN notifier. The SOP Provisioning Completion date (of the last service order for a PON) used to measure the BCN timeliness will be added to both the PCN and BCN.

The Carrier Working Group also consented to delete all the OR-4 sub-metrics except OR 4-11 % Completed Orders With Neither a PCN nor BCN Sent (with language modified). There was disagreement as to the standards.

The ordered metrics and standards are shown below.

Function:	
OR-X Order Completion Timeliness (PCN)	
Definition:	
The percent of EDI Provisioning Completion Notifiers (PCNs) sent within one business day of work order completion (WFA completion date) in the Verizon service order processing system. The elapsed time begins with the Provisioning completion in the Verizon Service Order Processing system of the last service order associated with a specific PON. The PCN is considered sent when the Verizon Netlink system initiates the send of the completed notifier to the CLEC. (The notifier shall be considered sent when it is time-stamped after EDI translation and encryption, immediately prior to transmission to the CLEC.) The PCNs shall be considered to be timely if Verizon provides them within one business day of the Work Order Completion (WFA completion date) in the Service Order processor.	
Exclusions:	
<ul style="list-style-type: none"> • Orders not received through the Verizon Netlink EDI system. This includes orders transmitted manually, orders received through the VAN EDI system and orders submitted through the Web GUI. • VADI orders 	
Performance Standard:	
95% of PCNs sent within one (1) Business Day	
Report Dimensions:	
Company:	Geography:
<ul style="list-style-type: none"> • CLEC aggregate • CLEC specific 	<ul style="list-style-type: none"> • State
Products	CLEC Aggregate:
	<ul style="list-style-type: none"> • EDI
Sub-Metrics	
OR-X-01	% Provisioning Completion Notifiers sent within One Business Day
Calculation	Numerator
	Number of EDI PONs completed that produce a PCN within 1 business day after Work Completion in WFA.
	Denominator
	Total number of EDI PONs for which the last service order has been updated as provisioning completed in the Service Order Processor

Function:		
OR-X Order Completion Timeliness (BCN)		
Definition:		
<p>The percent of EDI Billing Completion Notifiers (BCNs) sent within two business days of the provisioning order completion in the Verizon service order processing system (SOP). The elapsed time begins with the completion in the Verizon Service Order Processing system of the last service order associated with (provisioning) a specific PON. The BCN is considered sent when the Verizon Netlink system initiates the send of the completed notifier to the CLEC. (The notifier shall be considered sent when it is time-stamped after EDI translation and encryption, immediately prior to transmission to the CLECs). The BCNs shall be considered to be timely if Verizon provides them within 2 business days of the Order Completion in the Service Order processor.</p>		
Exclusions:		
<ul style="list-style-type: none"> • Orders not received through the Verizon Netlink EDI system. This includes orders transmitted manually, orders received through the VAN EDI system and orders submitted through the Web GUI. • VADI orders 		
Performance Standard:		
95% of BCNs sent within two (2) Business Days		
Report Dimensions:		
Company:		Geography:
<ul style="list-style-type: none"> • CLEC aggregate • CLEC specific 		<ul style="list-style-type: none"> • State
Products	CLEC Aggregate:	
	<ul style="list-style-type: none"> • EDI 	
Sub-Metrics		
OR-X-01	% Billing Completion Notifiers sent within 2 Business Days	
Calculation	Numerator	Denominator
	Number of EDI PONs completed that produce a BCN within 2 business days after SOP provisioning completion update.	Total number of EDI PONs for which the last service order has been updated as provisioning completed in the Service Order Processor in a month.

Function:					
OR-X % Completed Orders With Neither a PCN Nor BCN Sent					
Definition:					
<p>The percent of EDI PONs for which the last service order has been Provisioning completed in the in the Verizon service order processing system. The elapsed time begins with the Provisioning completion in the Verizon Service Order Processing system of the last service order associated with a specific PON. The PCN and the BCN are considered sent when the Verizon Netlink system initiates the send of the completed notifier to the CLEC. (The notifier shall be considered sent when it is time-stamped after EDI translation and encryption, immediately prior to transmission to the CLEC.) If no PCN and no BCN have been sent in two business days after Provisioning completion, the order will be captured here in this measure.</p>					
Exclusions:					
<ul style="list-style-type: none"> • Orders not received through the Verizon Netlink EDI system. This includes orders transmitted manually, orders received through the VAN EDI system and orders submitted through the Web GUI. • VADI orders • Any product that is not designed to generate a PCN and a BCN 					
Performance Standard:					
0.25% of PONs that received neither a PCN nor a BCN within 2 (two) business days from the SOP posting of the provisioning of the last service order associated with a specific PON.					
Report Dimensions:					
Company: <ul style="list-style-type: none"> • CLEC aggregate • CLEC specific 	Geography: <ul style="list-style-type: none"> • State 				
Products	CLEC Aggregate: <ul style="list-style-type: none"> • EDI 				
Sub-Metrics:					
OR-X-01	% of Completed Orders With Neither a PCN Nor BCN Sent				
Calculation	<table border="1" style="width: 100%;"> <thead> <tr> <th style="width: 50%; text-align: center;">Numerator</th> <th style="width: 50%; text-align: center;">Denominator</th> </tr> </thead> <tbody> <tr> <td>Number of EDI PONs completed that have produced neither a PCN nor a BCN within 2 business days after the last service order has been updated as provisioning completed in the Service Order Processor.</td> <td>Total number of EDI PONs for which the last service order has been updated as provisioning completed in the Service Order Processor</td> </tr> </tbody> </table>	Numerator	Denominator	Number of EDI PONs completed that have produced neither a PCN nor a BCN within 2 business days after the last service order has been updated as provisioning completed in the Service Order Processor.	Total number of EDI PONs for which the last service order has been updated as provisioning completed in the Service Order Processor
Numerator	Denominator				
Number of EDI PONs completed that have produced neither a PCN nor a BCN within 2 business days after the last service order has been updated as provisioning completed in the Service Order Processor.	Total number of EDI PONs for which the last service order has been updated as provisioning completed in the Service Order Processor				

Function:
OR- XX PON Notifier Exception Resolution Timeliness
Definition:
<p>This metric measures the percent of Netlink EDI PON Notifier Exceptions resolved within three (3) business days and ten (10) business days from the day of receipt of the completed PON Notifier Exception trouble ticket template with the PONs in question enumerated with the appropriate identification.</p> <p>The elapsed time begins with receipt at the Verizon Wholesale Customer Care Center of a completed PON Notifier Exception trouble ticket template with the PONs in question enumerated with the appropriate identification for EDI notifiers (i.e., order acknowledgement (ACK), order confirmation (LSC), provisioning completion (PCN), or billing completion (BCN) notices)</p> <p>PON Notifier Exceptions received after 5:00 PM will be considered received the next business day.</p> <p>The PON Notifier Exception is considered resolved when Verizon has either:</p> <ol style="list-style-type: none">1. Sent or resent the requested notifier or higher notifier. If the notifier cannot be resent due to CLEC system availability or capacity, then the PON Notifier Exception shall be considered resolved when the resend was attempted as demonstrated in Verizon's log files (copies of these files will be available to CLECs on request).2. Requested the CLEC to resubmit the PON if no Verizon notifiers have been generated.3. Completed the investigation showing that the next action is a CLEC action and that the CLEC has been sent or resent the notifier for the action required (e.g. Query, Jeopardy), or Status File for Duplicate, earlier or later version of PON has been worked, PON previously canceled, invalid PON number.4. Completed work that will allow the PON to proceed to the next step in the business process, and sent the appropriate notifier to the CLEC.5. Notified the CLEC that the Confirmed Due Date plus the notifier production interval has not yet passed for requested PON Notifier (PCNs and BCNs.) and provided the current work status of the PON (i.e. Provisioning Completed, Notifier not yet produced). For PCNs and BCNs, Trouble Tickets are not to be initiated prior to or on the Confirmed Due Date: any Trouble Ticket initiated prior to the Confirmed Due Date is automatically considered resolved when the CLEC is provided with electronic notification that the initiation date is prior to the Confirmed Due Date. <p>CLEC notification (for items 2, 3, 4 and 5) will be accomplished via a daily file sent from Verizon to the individual CLEC. This notification file will be sent every day by 5:00 PM. For the purposes of this metric the PON Notifier Exception(s) trouble ticket templates for Acknowledgements must be submitted within 5 business days of the PON sent date. PON Notifier Exceptions for confirmations must be reported within 30 business days of the PON sent date. PON Notifier Exceptions for PCNs and BCNs must be reported to Verizon within 30 business days of the PON Confirmed Due Date.</p>
Exclusions:
<ul style="list-style-type: none">• Non NETLINK EDI PON Exception Notifier Trouble Tickets.• VADI PON Exception Notifier Trouble Tickets excluded from the CLEC aggregate.• Any request for Notifier for orders due/complete more than 30 (business) days old.• Orders for Products/Services that are not designed to produce the requested notifier (e.g. LIDB).

Performance Standard		
OR XX-01, 03: 95% resolved within three (3) Business Days. OR XX-02: 99 % resolved within ten (10) Business Days.		
Report Dimensions		
Company:	Geography:	
<ul style="list-style-type: none"> • CLEC Aggregate ¹ • CLEC Specific • VADI (For Commission Viewing Only) 	<ul style="list-style-type: none"> • State 	
Sub-Metrics		
ORXX-01	% Of PON Exceptions Resolved Within Three (3) Business Days	
Products	All	
Calculation	Numerator	Denominator
	Number of PON Notifier Exceptions resolved within three (3) business days	Total Number of PON Notifier Exceptions resolved in the Wholesale Customer Care Center (WCCC) in the reporting month less resolved PON Notifier Exceptions that were included as unresolved PON Notifier Exceptions in the previous month's denominator for metric OR-XX-02.
OR XX-02	% Of PON Exceptions Resolved Within Ten (10) Business Days	
Products	All	
Calculation	Numerator	Denominator
	Number of PON Notifier Exceptions resolved within ten (10) business days	Total Number of PON Notifier Exceptions resolved in the Wholesale Customer Care Center (WCCC) in the reporting month plus unresolved PON Notifier Exceptions greater than ten (10) business days.

¹ excludes VADI .

Section H - Geographic Reporting.

Change Proposed:

Add language to the beginning of the Carrier-to-Carrier Guidelines that Verizon will not provide disaggregated geographic reporting for metrics PR-1, PR-3, PR-4, PR-5, PR-6, PR-8, PR-9, MR-2, MR-3, MR-4 and MR-5 unless requested. Geographically disaggregated reports will be provided on an ad hoc basis upon request. A CLEC only has to initiate one request for disaggregated reports through its account manager. Once the request is received, the CLEC will continue to receive the disaggregated reports until the CLEC issues a discontinue notice through its account manager. This does not affect any existing interconnection agreements where geographical disaggregation is being reported.

Rationale:

This will allow wider distribution of Carrier-to-Carrier Reports without the necessity of executing a confidentiality agreement.

Section I - Carrier Working Group Dataset Requests

Upon Carrier Working Group request, Verizon will provide aggregate performance data in order for the assessment of performance standards for existing metrics. Generally Verizon should distribute the information to the Carrier Working Group within 30 days of the request. Verizon committed to retain a minimum of 12 months of data.

Section J – New Interim Billing Claims Processing Metrics

The Carrier Working Group agreed that the BI-3-01 and BI-3-02 metrics should be eliminated, and replaced with BI-3-04, and BI-3-05 as shown below. The new metrics show the percent of CLEC Billing Claims acknowledged within two business days and the percent of CLEC Billing Claims resolved within 28 calendar days after acknowledgement. These measurements cover the claims handled by the Billing Center today.

Data will be collected for a four-month study period. The Carrier Working Group will take two months to review the data. Additionally, the current Verizon billing claims dispute resolution process will be discussed by the Carrier Working Group to determine if the process needs to be enhanced.

Function:		
BI – 3 Billing Accuracy & Claims Processing		
Definition:		
<p>This metric measures the promptness with which Verizon acknowledges and resolves CLEC billing adjustment claims. (Note specific content of acknowledgement and resolution statement to be discussed at an operational meeting date TBD.)</p> <ul style="list-style-type: none"> • Business hours for receipt of billing claims are Monday through Friday, 8:00 am to 5:00 PM, excluding Verizon Legal Holidays; • CLEC billing adjustment claims received outside these business hours shall be considered received at 8:00 am on the first business day thereafter. • Day of receipt shall considered Day "0" for computing acknowledgement performance. • Day of acknowledgement of a billing claim is considered Day "0" for computing resolution performance. 		
Exclusions:		
<ul style="list-style-type: none"> • CLEC claims for adjustments such as: charges for directories, incentive regulation credits, credits for performance remedies, out-of-service credits and special promotional credits. 		
Performance Standard:		
BI-3-04: 95% within two business days. BI-3-05: 95% within 28 calendar days (after acknowledgement.)		
Report Dimensions:		
Company:	Geography:	
<ul style="list-style-type: none"> • CLEC Aggregate 	<ul style="list-style-type: none"> • New York 	
Sub-Metrics:		
BI-3-04	% CLEC Billing Claims Acknowledged Within Two Business Days	
Calculation	Numerator	Denominator
	Number of billing claims acknowledged during the month within two business days.	Total number of valid/complete billing adjustment claims acknowledged during the month.
BI-3-05	% CLEC Billing Claims Resolved Within 28 Calendar Days After Acknowledgement	
Calculation	Numerator	Denominator
	Number of billing adjustment claims during the month resolved within 28 calendar days after acknowledgement.	Total number of billing adjustment claims resolved during the month.

Statistical Methodologies:

The incumbent LEC will use statistical methodologies as one means to determine if "parity" exists, or if the performance for CLECs is equivalent to the performance for the incumbent LEC. For performance measures where "parity" is the standard and sufficient sample size exists, the incumbent LEC will use the "modified Z statistic" proposed by a number of CLECs in LCUG (Local Competitors User Group). The specific formulas are detailed below:

Counted Variables:

$$Z = \frac{P_{INC} - P_{CLEC}}{\sqrt{P_{INC}(1 - P_{INC})\left(\frac{1}{n_{INC}} + \frac{1}{n_{CLEC}}\right)}}$$

Measured Variables:

$$t = \frac{\bar{X}_{INC} - \bar{X}_{CLEC}}{\sqrt{S^2_{INC}\left(\frac{1}{n_{INC}} + \frac{1}{n_{CLEC}}\right)}}$$

Note: If the metric is one where a higher mean or higher percentage signifies better performance, the proportions (counted variables) or means (measured variables) in the numerator of the statistical formulas should be reversed.

Definitions:

Measured Variables are metrics of means or averages, such as mean time to repair, or average interval.

Counted Variables are metrics of proportions, such as percent measures.

\bar{X} is defined as the average performance or mean of the sample

S is defined as the standard deviation

n is defined as the sample size

p is defined as the proportion, for percentages 90% translates to a 0.90 proportion

A Z or t score of below -1.645 provides a 95% confidence level that the variables are different, or that they come from different processes.

Sample Size Requirements:

The standard Z or t statistic will be used for measures where "parity" is the standard, unless there is insufficient sample size. For measured variables, the minimum sample size for both the incumbent LEC and CLEC is 30. For counted variables, both $n_{INC}P_{INC}(1 - p_{INC})$ and $n_{CLEC}P_{CLEC}(1 - p_{CLEC})$ must be greater than or equal to 5. When the sample size requirement is not met, the incumbent LEC will do the following:

- a.) If the absolute performance for the CLEC is better than the incumbent LEC's performance, no statistical analysis is required.
- b.) If the performance is worse for the CLEC than for the incumbent LEC, the incumbent LEC will use the t distribution or binomial (counted or measured) until such time as a permutation test can be run in an

automated fashion. If the performance is worse for the CLEC than for the incumbent LEC for a counted variable, the incumbent LEC will utilize the hypergeometric distribution, where calculable in an automated fashion in a manner that is contained within, or directly linked to the performance reporting spreadsheets, to produce the same result as would be obtained from the permutation test. The incumbent LEC will provide monthly updates regarding its progress in automating the permutation test for measured variables and for automating the permutation test for counted variables in those instances where the test is not calculable in a manner tied to the performance reporting spreadsheets.

- c.) If the t or binomial distribution show an "out of parity" result, the incumbent LEC will run the permutation test.
- d.) If the permutation test shows an "out of parity" condition, the incumbent LEC will perform a root cause analysis to determine cause. If the cause is the result of "clustering" within the data, the incumbent LEC will provide such documentation. The nature of the variables used in the performance measures is that they do not meet the requirements 100% of the time for any statistical testing. Individual data points are not independent. The primary example of such non-independence is a cable failure. If a particular CLEC has fewer than 30 troubles and all are within the same cable failure with long duration, the performance will appear out of parity. However, for all troubles, including the incumbent LEC's troubles, within that individual event, the trouble duration is identical. Another example of clustering is if a CLEC has a small number of orders in a single location, with a facility problem. If this facility problem exists for all customers served by that cable and is longer than the average facility problem, the orders are not independent and clustering occurs. Finally, if root cause shows that the difference in performance is the result of CLEC behavior, the incumbent LEC will identify such behavior and work with the respective CLEC on corrective action.

Exceptions:

A key frailty of using statistics to evaluate parity is that a key assumption about the data, necessary to use statistics, is faulty. One such assumption is that the data is independent. Events included in the performance measures of provisioning and maintenance of telecommunication services are not independent. The lack of independence is referred to as "clustering" of data. Clustering occurs when individual items (orders, troubles etc.) are clustered together as one single event. This being the case, the incumbent LEC will file an exception to the performance scores if the following events occur:

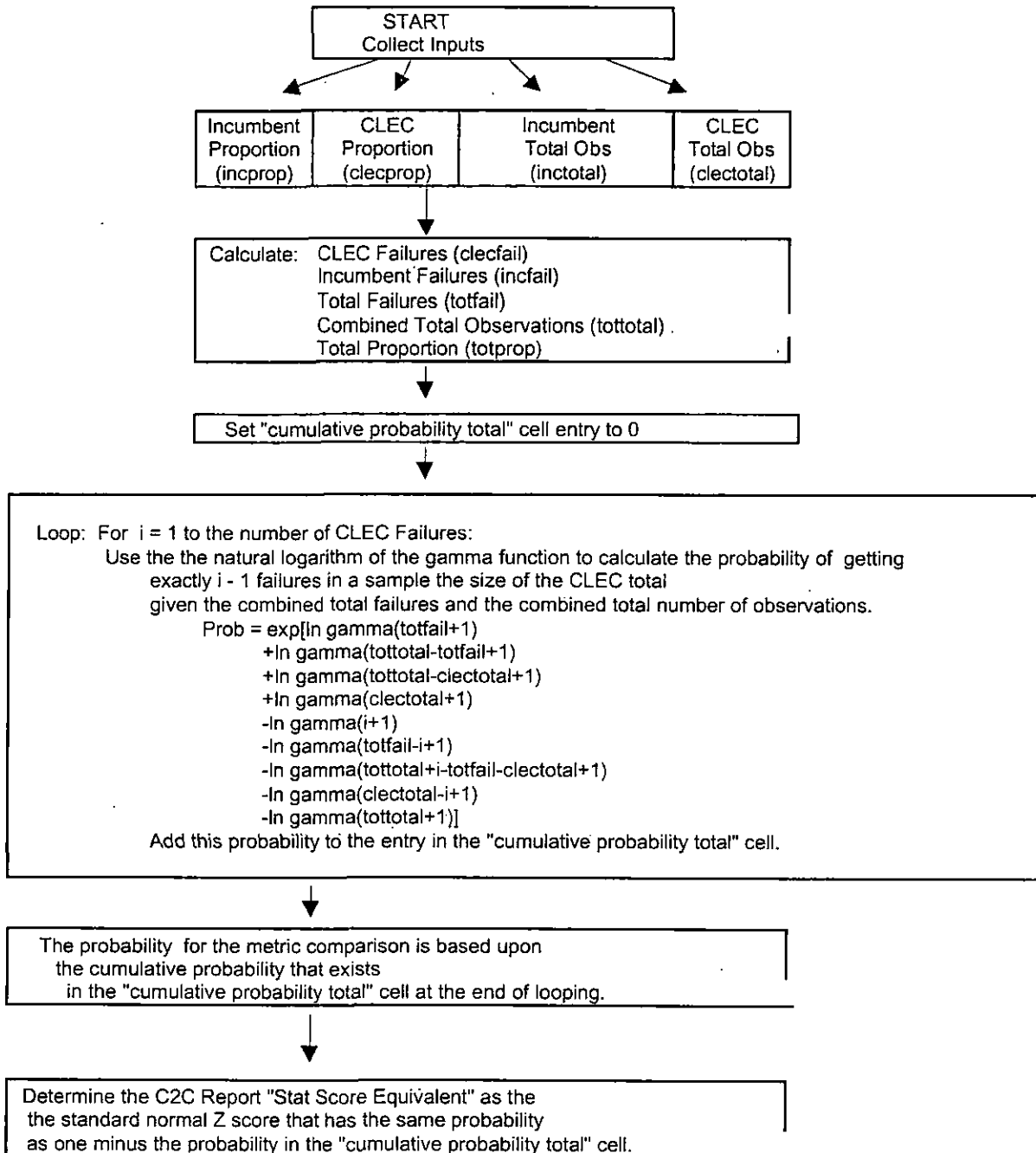
- a.) **Event Driven Clustering - - Cable Failure:** If a significant proportion (more than 30%) of a CLECs troubles are in a single cable failure, the incumbent LEC will provide the data demonstrating that all troubles within that failure, including the incumbent LEC's troubles were resolved in an equivalent manner. Then, the incumbent LEC will provide the repair performance data with that cable failure performance excluded from the overall performance for both the CLEC and the incumbent LEC and the remaining troubles compared according to normal statistical methodologies.
- b.) **Location Driven Clustering - - Facility Problems:** If a significant proportion (more than 30%) of a CLECs missed installation orders and resulting delay days were due to an individual location with a significant facility problem, the incumbent LEC will provide the data demonstrating that the orders were "clustered" in a single facility shortfall. Then, the incumbent LEC will provide the provisioning performance with that data excluded. Additional location driven clustering may be demonstrated by disaggregating performance into smaller geographic areas.
- c.) **Time Driven Clustering - - Single Day Events:** If significant proportion (more than 30%) of CLEC activity, provisioning or maintenance, occur on a single day within a month, and that day represents an unusual amount of activity in a single day, the incumbent LEC will provide the data demonstrating that the activity is on that day. The incumbent LEC will compare that single day's performance for the CLEC to incumbent LEC's own performance. Then, the incumbent LEC will provide data with that day excluded from overall performance to demonstrate "parity".
- d.) **CLEC Actions:** If performance for any measure is impacted by unusual CLEC behavior, the incumbent LEC will bring such behavior to the attention of the CLEC to attempt resolution. Examples of CLEC behavior impacting performance results include order quality, causing excessive missed appointments, incorrect dispatch identification, resulting in excessive multiple dispatch and repeat reports, inappropriate X coding on orders, where extended due dates are desired, and delays in rescheduling appointments, when the incumbent LEC has missed an appointment. If such action negatively impacts performance, the incumbent

LEC will provide appropriate detail documentation of the events and communication to the individual CLEC and the Commission.

Documentation:

The incumbent LEC will provide all details, ensuring protection of customer proprietary information to the CLEC and Commission. Details include individual trouble reports, and orders with analysis of the incumbent LEC's and CLEC performance. For cable failures, the incumbent LEC will provide appropriate documentation detailing all other troubles associated with that cable failure.

**Flow Chart of Log Gamma Routine
 For C2C Report, Small Sample Size
 Counted Variable Metric Comparisons**



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PUBLIC UTILITIES COMMISSION

DOCKET NO. 2000-849

RE: MAINE PUBLIC UTILITIES COMMISSION INQUIRY
REGARDING THE ENTRY OF VERIZON-MAINE INTO THE
INTERLATA TELEPHONE MARKET PURSUANT TO SECTION 271
OF THE TELECOMMUNICATIONS ACT 1996

HEARING
January 29, 2002

Bellevue A. Deliveau
Public Registrar

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January 29, 2002
Docket No. 2000-849
9:08 A.M.
TRANSCRIPT OF PROCEEDINGS

EXAMINER BRAGDON: Good morning. My name is Trina Bragdon. I'm the hearing examiner in this case. We're here today in Docket No. 2000-849, the Commission's investigation into Verizon's compliance with Section 271 of the Telecommunications Act of 1996. With me on the bench this morning is Commissioner Stephen Diamond. Joining us in a few minutes will be chairman Tom Welch. The Commission's consultant on this case is Paul Hartman. In the back is staff Amy Spelke from the finance division, and I expect we'll see Doug Cowie from the technical and Rich Kania from the finance division as well.

What I'd like to do is take appearances for the record. We'll get all the attorneys on record and then -- and anyone else who intends to ask questions. Any witnesses, we'll wait until you're presented by your attorney to take the appearances at that time. I will start with to my right.

MR. BOECKE: Sure. For Verizon-Maine, Don Boecke. I would also like to enter the appearance of

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Mr. Keefe Clemons and Mr. William Smith.

EXAMINER BRAGDON: Okay.

MR. BRANFMAN: For CTC Communications, Eric Branfman.

MR. SANBORN: For Telecommunications of Maine, Ben Sanborn.

MR. DONAHUE: For Mid-Maine Communications, Revolution Networks, Oxford Networks and Pinetree Networks, the so-called CLEC Coalition, Joseph Donahue of Preti, Flaherty, Bellevue, Pachios & Haley in Augusta, Maine, and also joining me today and will likely to be asking questions today or tomorrow or the day after, Nicholas Winchester, Mid-Maine Communications and Virginia Robideau of Revolution Networks.

MS. CARNEY JOHNSON: I'm Cynthia Carney Johnson on behalf of WorldCom.

MR. JORTNER: Wayne Jortner and Bill Black from Public Advocate.

EXAMINER BRAGDON: Okay. Very good. One of the first housekeeping things that I need to do is rule on Verizon's motion in liminae. The motion is denied. I'll issue a written order at the end of these proceedings, probably early next week.

Given that this is a group of telephone people,

1 I'd like to remind everybody to turn their cell phones
 2 off. Just to go over how we're going to run today's
 3 proceedings, the witnesses will be sitting up on the
 4 bench at the end of the room. We will have Verizon put
 5 their witnesses on for a checklist item. We will allow
 6 the parties to cross-examine. The bench will
 7 intersperse questions as they come up, and then at the
 8 end, the bench will do any final questions.

9 I'd like to remind everybody, we've got a lot of
 10 people here today, please speak one at a time. The
 11 court reporter can only record one person at a time,
 12 and please make an effort -- the speakers are those
 13 little black things on the top of the table here, to --
 14 microphones, sorry, microphones, to try, especially the
 15 witnesses. And that's all I have for housekeeping
 16 matters. Any other housekeeping matters before we get
 17 started?

18 MR. BRANFMAN: I raised yesterday with all the
 19 parties the problem that we had with Mr. Oliver not
 20 being available due to illness. He would be available
 21 next week. I'm hoping that we can reach an agreement
 22 that he can be cross-examined if anyone has questions
 23 for him at a convenient time next week, preferably by
 24 telephone.

25 EXAMINER BRAGDON: Has counsel had a chance to

1 think I would just take a second to read into the
 2 record how Verizon proposes to mark on its exhibits
 3 today. I distributed to counsel a listing of what
 4 we've done, and so the record is clear, Verizon took
 5 its entire October 18th filing and marked that as a
 6 single exhibit, and that exhibit includes a
 7 declarations book that has four individual
 8 declarations: the checklist declaration, the
 9 measurements declarations, the operation support
 10 systems or OSS declarations, and the fourth one is the
 11 PriceWaterhouse attestation.

12 Behind that you'll find five bound volumes that
 13 are attachments that are referred to in those four
 14 declarations. We propose to mark that entire filing as
 15 Verizon Exhibit 1.

16 The second exhibit to mark for identification
 17 are the updates to those three checklists -- to those
 18 three declarations that we filed on January 23rd. The
 19 updates, as everyone has seen, is mainly to provide
 20 more current information from the time the original
 21 October declarations were prepared until the time of
 22 the hearing, and I would mark all three of those as
 23 Exhibit 2.

24 Exhibit 3 for identification is the supplemental
 25 checklist declaration which I'll note for the record

1 talk?

2 MR. BOECKE: No, I have not had a chance to
 3 speak with Mr. Branfman. We we'll certainly discuss
 4 that. We would also propose something where questions
 5 that we believe are important for the record we could
 6 submit to him in writing, and he could just answer them
 7 in writing, and just move that as an exhibit into the
 8 record, if that's all right.

9 EXAMINER BRAGDON: Okay. Why don't you two
 10 discuss and get back when we come back from the next
 11 break or after lunch, and just as a general just so
 12 people will know what to expect, we'll go probably an
 13 hour and a half and take a break. The court reporter
 14 needs to take a break; we all need to take a break.
 15 We'll break for lunch and go through the afternoon and
 16 hopefully try to wind up by 5:00, 5:30. That's the
 17 plan. So I will turn to Mr. Boecke.

18 MR. BOECKE: Okay.

19 MR. BLACK: I'm just curious. Who's on the
 20 speaker, did you say?

21 EXAMINER BRAGDON: Oh, there's no one on the
 22 phone. This is just broadcasting upstairs.

23 MR. BLACK: Thanks.

24 INVESTIGATOR PIERCE: Everybody wants to know.

25 MR. BOECKE: Before we call our first witness, I

1 has individual attachments to that declaration,
 2 Attachments 1, 2 and 3 and there's attachment 3-1 and
 3 4-1.

4 Exhibit No. 4 for identification would be the
 5 measurements declaration, and it has no attachments,
 6 and Exhibit No. 5 would be the supplemental
 7 OSS declaration, and it has no attachments.

8 And before I forget, there is one revision we
 9 had to make to the update of the checklist declaration,
 10 and I'll hand out the revised page. There was an
 11 addition at paragraph 342 to include numbers from the
 12 toll-free database. That number was not available at
 13 the time. We filed this on the 23rd so we're just
 14 submitting that now. I e-mailed that to the parties
 15 yesterday. So this revised page 16 you could just
 16 stick into the last page of the checklist update which
 17 is Verizon Exhibit 2.

18 Any questions so far?

19 MR. DONAHUE: Don, on Verizon Exhibit No. 3, the
 20 supplemental checklist declaration, is there a date on
 21 that, because I think often times we search things in
 22 our files or our e-mail files saying that we received
 23 them.

24 MR. BOECKE: They were all mailed on January
 25 15th, I think.

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1 MR. CLEMONS: It's dated January.
 2 MR. BOECKE: Okay. It has a date in the upper
 3 right-hand corner.
 4 EXAMINER BRAGDON: Yes.
 5 MR. DONAHUE: Don, I'll have similar questions
 6 for 4 and 5.
 7 MR. BOECKE: They were all filed the same day.
 8 MR. DONAHUE: Those are all the same day.
 9 Okay.
 10 MR. BOECKE: Okay. Our first witness is Ms.
 11 Karen Maguire.
 12 EXAMINER BRAGDON: Hi. Would you raise your
 13 right hand.
 14 (Witness sworn.)
 15 EXAMINER BRAGDON: Would you state your name for
 16 the record, please.
 17 MS. MAGUIRE: Karen Maguire, M A G U I R E.
 18 EXAMINATION OF MS. MAGUIRE
 19 BY MR. BOECKE:
 20 Q. Ms. Maguire, you were responsible for the items -- the
 21 portions of the checklist declaration dealing with
 22 collocation issues; is that correct?
 23 A. Yes.
 24 Q. So you had a hand in drafting both the initial
 25 declaration as well as the supplemental declaration?

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1 A. Yes.
 2 Q. Are there any changes or revisions you need to make?
 3 A. No.
 4 Q. To your portion?
 5 A. No.
 6 MR. BOECKE: The witness is available for
 7 cross.
 8 EXAMINER BRAGDON: Okay.
 9 MR. BOECKE: Sorry. Mr. Clemons will be
 10 handling this witness for Verizon.
 11 EXAMINER BRAGDON: Okay. I guess we'll just
 12 move around the room to the left, Telephone Association
 13 of Maine?
 14 MR. SANBORN: No.
 15 EXAMINER BRAGDON: CLEC Coalition?
 16 MR. DONAHUE: Yes, we have questions.
 17 EXAMINATION OF MS. MAGUIRE:
 18 BY MR. WINCHESTER:
 19 Q. In the supplemental declaration, paragraph 49 and 50,
 20 there's a statement in there that basically says
 21 MMC complains that Verizon-Maine has yet to take the
 22 appropriate measures, actions to resolve MMC's
 23 collocation bills that it claims to have been incorrect
 24 since late 1999 and early 2000, and she also states
 25 that Verizon has refused retroactive credits for old

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1 billing errors.
 2 The specific question is in addition to Roy's
 3 power charges, there are other areas of collocation
 4 that billing at Verizon cannot seem to get right,
 5 including things as simple -- is that statement still
 6 accurate?
 7 A. Well, it's actually your statement, right?
 8 Q. It is, but the question being is that -- okay. In
 9 paragraph 50, if you read down a little bit further,
 10 consequently, neither MMC nor this other CLEC do
 11 retroactive credits from Verizon-Maine dating back to
 12 1999 and 2000. Is that correct?
 13 A. Let me just read it for context. There's really two
 14 separate issues here. One is billing errors which in
 15 recent discussions with Mid-Maine, and as stated in his
 16 testimony, that there has been discussions within the
 17 last 30 days and that there were billing errors that
 18 were resolved.
 19 There's a separate issue with respect to the
 20 philosophical way, differences in opinion on how each
 21 are supposed to charge, but that statement applies to
 22 that there's no retroactive credits.
 23 Q. At the time of this filing, are you stating that those
 24 outstanding claims had been resolved by the time of
 25 this filing on the 15th of January?

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1 A. Again, I'm stating that there are certain claims that
 2 this applies to, and that's what we were addressing.
 3 There are billing disputes that were not resolved as of
 4 the 15th, that's correct.
 5 Q. But it says MMC submitted billing claims in the past
 6 and those claims had been resolved.
 7 A. There had been, at the time of this filing, there had
 8 been billing claims but they had been resolved.
 9 Q. Are those specific to the claims that had been
 10 incorrect or outstanding since 1999 and early 2000?
 11 A. There had been claims that were outstanding as of 1999
 12 and 2000 that had been resolved.
 13 EXAMINER BRAGDON: And were there other claims
 14 that had not been resolved?
 15 MS. MAGUIRE: Yes.
 16 MR. WINCHESTER: Okay. I have no further
 17 questions.
 18 EXAMINATION OF MS. MAGUIRE:
 19 BY MS. ROBIDEAU:
 20 Q. Paragraph 48 says, nevertheless, Verizon-Maine has
 21 appropriately charged CLECs for DC power in accordance
 22 with its tariff and industry practices.
 23 Is it not true that recently Verizon recognized
 24 billing errors with respect to DC power charges to
 25 Revolution Networks in the initial amount of \$13,800?

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1 A. Yeah, and actually that's footnoted here in the
 2 paragraph, notwithstanding this point, Verizon has
 3 recently discovered that it inadvertently billed Rev
 4 Net power on a fused amp rather than on a load amp
 5 basis, so, yes, that's true, and it was footnoted in
 6 the testimony.
 7 Q. Okay. And Verizon agreed to make further adjustments
 8 to DC power charges to Revolution Networks or did
 9 Verizon agree to further charges to Revolution Networks
 10 on DC power in the amount of \$7,000 in terms of billing
 11 errors, meaning adding the additional 7 -- an
 12 additional \$7,000 to the initial 13,800 that was found
 13 in billing errors?
 14 A. That's essentially correct.
 15 Q. That's true?
 16 A. I don't have the exact numbers.
 17 Q. Okay. For a total of about 21,000?
 18 A. That's correct.
 19 MS. ROBIDEAU: I don't have anything else.
 20 MR. DONAHUE: If we could go back to Mr.
 21 Winchester, please.
 22 MR. WINCHESTER: One other question is as it
 23 relates to the billing credit. Have those billing
 24 credits that we just discussed in paragraph 50 been
 25 applied to the bill?

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1 MS. MAGUIRE: They've been processed. They'll
 2 be seen on the February version of the bill.
 3 MR. WINCHESTER: In addition, have the monthly
 4 charges also been corrected to properly or accurately
 5 reflect the amount of power fused at all of Mid-Maine's
 6 collocation sites?
 7 MS. MAGUIRE: Yes, on a prospective basis, yes.
 8 MR. WINCHESTER: Okay.
 9 MS. ROBIDEAU: And that also -- that also goes
 10 to Revolution Networks; is that not correct?
 11 MS. MAGUIRE: That is correct.
 12 MS. ROBIDEAU: Okay.
 13 EXAMINER BRAGDON: While we're on the subject of
 14 power, I'm going to jump in with a couple of questions,
 15 and I'm looking at the supplemental checklist where you
 16 were describing the A and B power feeds and the fact
 17 that both power is drawn from both.
 18 Is one a primary?
 19 MS. MAGUIRE: It really depends on how a CLEC
 20 engineers its equipment. Typically, as I understand
 21 it, CLECs do load sharing where they have power being
 22 drawn off of both the AP and the D.C., but at the same
 23 time, if the feed should go down, one of the feeds has
 24 the ability to take on the entire load. So that's
 25 typically the way it's engineered.

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1 EXAMINER BRAGDON: Are you aware of an agreement
 2 that was reached with the -- in Pennsylvania regarding
 3 power between Verizon and the CLECs?
 4 MS. MAGUIRE: We did have an agreement that
 5 related to power among other things, yes.
 6 EXAMINER BRAGDON: Can you describe that?
 7 MS. MAGUIRE: Well, it's essentially the same
 8 thing that we -- we've recently filed a new tariff in
 9 Maine in I guess it was May of 2001 when it went into
 10 effect, and basically it was essentially the same
 11 thing, that rather than charging on a fuse basis, we
 12 would charge on a load basis; and under the new rules,
 13 that you'd be allow to fuse up to 2-1/2 times the
 14 existing load, whereas previously, they were charged
 15 on -- recharged on a fuse basis, and we engineered what
 16 size the fuse would be, which is typically
 17 one-and-a-quarter to one-and-a-half times the load.
 18 So it was -- essentially, you know, it was a
 19 change in the way we billed for power which we rolled
 20 out to all of the states, including Maine.
 21 EXAMINER BRAGDON: Okay. So you're saying that
 22 what is -- what was agreed upon in Pennsylvania
 23 recently is already in place in Maine pursuant to the
 24 May 2001 tariff?
 25 MR. CLEMONS: Just as a point of clarification,

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1 are you referring to the agreement relating to the
 2 audit provisions and penalty provisions to the
 3 tariffs?
 4 MS. MAGUIRE: Oh, okay, and I may be -- the
 5 power settlement that I'm talking about in Pennsylvania
 6 happened, I believe, in late 2000, and was rolled out
 7 in 2001 in Pennsylvania and Maine. So if you're
 8 talking about -- and that was what was on my mind,
 9 based on the discussion we were just having.
 10 EXAMINER BRAGDON: Now, and breaking all lawyer
 11 rules by asking questions I don't know the answers to,
 12 and the person on staff who has the copy of the
 13 Pennsylvania document is not here, I'm referring to a
 14 very recent agreement in Pennsylvania. I believe it's
 15 a stipulation that is in front of the Commission and
 16 not yet approved?
 17 MS. MAGUIRE: Okay. And I apologize. I
 18 probably mixed things up. I was talking about
 19 something a little more -- a little older than that. I
 20 thought it related more to where we were, what we were
 21 talking about.
 22 That was a stipulation that basically the way I
 23 just talked about how we would charge at a load basis
 24 as opposed to a fuse basis, that stipulate -- there's
 25 an ability, under that methodology, there's an ability

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1 for a CLEC to draw more power than they're actually
 2 paying for; and that stipulation that we are
 3 negotiating or negotiated in Pennsylvania was to
 4 provide for a penalty payment if on audit they were
 5 actually drawing more than what they were paying for.
 6 At a high level, that's what that agreement was.
 7 EXAMINER BRAGDON: Okay.
 8 MS. MAGUIRE: And what the penalty conditions
 9 would be.
 10 EXAMINER BRAGDON: Okay. Why don't we -- I'm
 11 sorry. I skipped CTC. Mr. Branfman?
 12 EXAMINATION OF MS. MAGUIRE:
 13 BY MR. BRANFMAN:
 14 Q. Now, Ms. Maguire, would you take a look at checklist
 15 declaration paragraph 62 and 63 as updated. You had
 16 provided some more information about changing some of
 17 these numbers?
 18 A. Right.
 19 THE REPORTER: Excuse me. Could you just repeat
 20 that question. I didn't hear you.
 21 Q. You had changed some of the numbers to make them more
 22 current. Do you have that now?
 23 A. I do.
 24 Q. Now, of the 35 traditional physical collocation
 25 arrangements that Verizon provisioned in Maine, how

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1 many were purchased out of Verizon's FCC tariff No. 11?
 2 A. I'm sorry. I don't have that information in front of
 3 me.
 4 Q. Would it be more than half?
 5 A. I don't know off the top of my head. Let me see if I
 6 have that information. Yeah, it would.
 7 Q. And the rest would have been purchased out of the
 8 Verizon-Maine collocation tariff?
 9 A. Correct.
 10 Q. And I will ask you the same question with respect to
 11 the SCOPE collocation arrangements. Can you tell me
 12 approximately how many were purchased out of the FCC
 13 space tariff and how many out of the Maine tariff?
 14 A. I can tell you at least 98 were purchased out of the
 15 FCC. I don't believe much more than that but --
 16 Q. Okay. Now, you testified that in your checklist
 17 declaration that Verizon-Maine provide the same
 18 collocation offerings as Verizon-Massachusetts and
 19 Verizon-New York, correct?
 20 A. Yes.
 21 Q. And are Verizon' collocation offerings in Maine the
 22 same as New Hampshire, Rhode Island and Vermont?
 23 A. Yes.
 24 Q. And is Verizon's collocation process the same in Maine
 25 as it is in New Hampshire, Rhode Island and Vermont?

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1 A. Yes, it is.
 2 Q. And is Verizon's policy with respect to the time at
 3 which nonrecurring and recurring charges for
 4 collocation the same in Maine as it is in New
 5 Hampshire, Rhode Island, Vermont?
 6 A. I'm sorry. Could you repeat that question?
 7 Q. Is Verizon's policy with respect to the time at which
 8 nonrecurring and recurring charges for collocation the
 9 same in Maine as it is in New Hampshire, Rhode Island
 10 and Vermont?
 11 A. Yes.
 12 Q. And does Verizon handle collocation applications in
 13 Maine in the same manner that it handles collocation
 14 applications in New Hampshire, Rhode Island and
 15 Vermont?
 16 A. Yes, it does.
 17 Q. Now, you've attached to your declaration your direct
 18 testimony, your supplemental checklist declarations
 19 from New Hampshire, Rhode Island and Vermont, correct?
 20 A. Yes.
 21 Q. And in those proceedings were you also cross-examined
 22 on the record regarding your supplemental checklist
 23 declaration?
 24 A. Yes.
 25 MR. BRANFMAN: And if I may approach the

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1 witness, I'd like to provide copies of transcripts of
 2 that examination from Rhode Island, New Hampshire and
 3 Vermont.
 4 MR. CLEMONS: Are you just handing this to her
 5 for her review or are you --
 6 MR. BRANFMAN: Well, I would like to offer it
 7 into evidence if the -- if Verizon's supplemental
 8 declarations are to be offered into evidence which is
 9 my understanding that Verizon is doing. For
 10 completeness, I would like to offer the transcript of
 11 the cross-examination examination.
 12 EXAMINER BRAGDON: Let me be clear first. The
 13 filing here in Maine includes copies of testimony from
 14 New Hampshire, Rhode Island and Vermont?
 15 MR. BRANFMAN: That's what Rhode Island has put
 16 into evidence. That's attachment -- attachment 1-1,1-2
 17 and 1-3, I believe.
 18 MR. CLEMONS: And to be clear, Verizon put that
 19 into evidence in response to testimony that was filed
 20 by other parties in this proceeding that attached this
 21 as an exhibit, the testimony declarations from those
 22 same states.
 23 MR. BRANFMAN: That's not correct.
 24 MR. CLEMONS: Well --
 25 MR. BRANFMAN: It was in response to our prefile

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1 testimony, the CTC's prefile testimony which was Maine
 2 testimony, not Rhode Island, Vermont or New Hampshire.
 3 CHAIRMAN WELCH: Was the testimony -- was the
 4 stuff in the other states put in for the purpose of
 5 having the Commissioners read it?
 6 MR. BRANFMAN: I'll leave that to Verizon.
 7 MR. CLEMONS: By Verizon, yes.
 8 CHAIRMAN WELCH: Okay. What objection do you
 9 have to having the cross-examination from the other
 10 states come in? Was she telling the truth in the other
 11 states?
 12 MR. CLEMONS: We have no objection.
 13 CHAIRMAN WELCH: Good. That should shorten
 14 that up. And we don't have to read it either, at least
 15 out loud now.
 16 MR. BRANFMAN: These exhibits have been marked
 17 as CTC-02 which is the Rhode Island transcript, CTC-03
 18 which is the Vermont transcript and CTC-04 which is the
 19 New Hampshire transcript.
 20 CHAIRMAN WELCH: In the future if people are
 21 going to use exhibits, we'd like them at the beginning
 22 of the day on our desks, please. It just saves time.
 23 BY MR. BRANFMAN:
 24 Q. Ms. Maguire, if you were to be asked the same questions
 25 here as you were asked in Rhode Island, New Hampshire

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1 and Vermont, would your answers be the same?
 2 A. Essentially, yes. Some of the conditions are different
 3 in Maine than they are in other states.
 4 Q. And what is it that you have in mind?
 5 A. Well, one of the issues is that CTC doesn't have any
 6 situations in Maine that apply to this particular
 7 issue, whereas they did apply in the other states.
 8 That's essentially what is on my mind.
 9 Q. And if CTC or another CLEC were to have the same set of
 10 facts arise in Maine that arose in New Hampshire, Rhode
 11 Island and Vermont today, would Verizon's handling of
 12 the situation be the same as it was in New Hampshire,
 13 Rhode Island and Vermont as you testified to?
 14 A. Well, you're speaking of a hypothetical situation which
 15 I sincerely doubt would happen again, based on the
 16 experience CTC and Verizon have had, but, yes, my
 17 answer would be the same if hypothetically that did
 18 happen in the future.
 19 Q. Right. And that would be true if it happened with
 20 respect to other CLECs, correct?
 21 A. Yes.
 22 MR. BRANFMAN: Thank you. I have nothing
 23 further.
 24 EXAMINER BRAGDON: Office of the Public
 25 Advocate?

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1 MR. BLACK: No questions.
 2 EXAMINER BRAGDON: WorldCom?
 3 MS. CARNEY JOHNSON: No questions.
 4 EXAMINER BRAGDON: Commissioners? Let me just
 5 ask a question. Is the CLEC Coalition planning to put
 6 witnesses on for checklist item 1?
 7 MR. DONAHUE: Yes, unless there are no
 8 questions, although we do have supplemental material
 9 that we are going to introduce this morning that deals
 10 with checklist item No. 1, so probably it would make
 11 sense that, unless there are other parties with
 12 checklist item No. 1 witnesses, that we present our
 13 witnesses next.
 14 EXAMINER BRAGDON: Okay.
 15 MR. CLEMONS: Has that information been shared?
 16 MR. DONAHUE: No. The paper is still warm.
 17 MR. CLEMONS: I suggest that we be allowed to
 18 see it before it is offered.
 19 MR. DONAHUE: We would have no problem with
 20 bringing the witnesses back later in the hearing for
 21 questioning on checklist item No. 1.
 22 EXAMINER BRAGDON: Okay.
 23 MR. DONAHUE: Seeing that they haven't seen the
 24 written checklist item No. 1 updates.
 25 EXAMINER BRAGDON: My immediate concern is that

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1 we'll excuse Ms. Maguire for right now, but the bench
 2 may want her brought back after questioning from some
 3 of the CLEC witnesses today. There may be some
 4 follow-ups.
 5 MR. BOECKE: We'll keep her available.
 6 EXAMINER BRAGDON: Thank you.
 7 MR. CLEMONS: Just for the record, there's no
 8 redirect from Verizon.
 9 EXAMINER BRAGDON: Thank you. Okay. So now
 10 I'll ask the CLEC Coalition?
 11 MR. DONAHUE: Okay. CLEC Coalition would call
 12 Nick Winchester and Virginia Robideau to the stand.
 13 EXAMINER BRAGDON: Would you both raise your
 14 right hands.
 15 (Witnesses sworn.)
 16 EXAMINER BRAGDON: Would you each state your
 17 state for the record.
 18 MS. ROBIDEAU: Virginia Robideau, Revolution
 19 Networks.
 20 MR. WINCHESTER: Nicholas Winchester, Mid-Maine
 21 Communications.
 22 MR. DONAHUE: And I apologize for violating the
 23 rule with regard to handing out your exhibits in
 24 advance, but these exhibits are a little fresh this
 25 morning.

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1 EXAMINATION OF PANEL
 2 (Mr. Winchester and Ms. Robichaud).
 3 MR. DONAHUE: Mr. Winchester and Ms. Robideau, I
 4 call your attention to what's been marked as CLEC
 5 Coalition Exhibit No. 1 which I have an original here
 6 and we have distributed copies of this in paper to the
 7 Commission, and we offered in our cover letter to
 8 provide paper copies to any party that wanted a paper
 9 copy. We did not receive any requests. I do have a
 10 couple with me if anyone would like a paper copy.
 11 MR. BOECKE: This is the December filing by --
 12 MR. DONAHUE: Yes. This is the original
 13 declaration filing December 17, 2001.
 14 MR. BRANFMAN: While ours is being fetched --
 15 thank you.
 16 MR. DONAHUE: Mr. Winchester and Ms. Robideau,
 17 is it correct this filing was prepared by the CLEC
 18 Coalition pursuant to its direction?
 19 MR. WINCHESTER: Yes.
 20 MS. ROBIDEAU: Yes.
 21 MR. DONAHUE: And this filing contains the
 22 declaration of Mid-Maine Communications and Revolution
 23 Networks?
 24 MR. WINCHESTER: Yes.
 25 MS. ROBIDEAU: Yes.

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1 MR. DONAHUE: It also contains a proposal with
 2 regard to the performance assurance plan: is that
 3 correct?
 4 MR. WINCHESTER: Yes.
 5 MS. ROBIDEAU: Yes.
 6 MR. DONAHUE: It also contains a proposal with
 7 regard to a rapid response process; is that correct?
 8 MS. ROBIDEAU: Yes.
 9 MR. WINCHESTER: Yes.
 10 MR. DONAHUE: Okay. It also, by means of
 11 logistical convenience, it also included the
 12 declarations of the Association of Communication
 13 Enterprises, the nickname ASENT; is that correct?
 14 MR. WINCHESTER: That's right.
 15 MS. ROBIDEAU: That's correct.
 16 MR. DONAHUE: And you are familiar with these
 17 documents and are prepared to testify about them
 18 today?
 19 MR. WINCHESTER: Yes.
 20 MS. ROBIDEAU: Yes.
 21 MR. DONAHUE: Mr. Winchester and Ms. Robideau, I
 22 call your attention to what has been marked as CLEC
 23 Coalition Exhibit No. 2. Would you confirm that this
 24 is a copy of the CLEC Coalition's responses to
 25 questions raised at the December 19th technical

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1 conference that was filed yesterday with the
 2 Commission?
 3 MR. WINCHESTER: Yes.
 4 MS. ROBIDEAU: Yes.
 5 EXAMINER BRAGDON: And these responses were
 6 prepared by you or under your direction?
 7 MS. ROBIDEAU: Yes.
 8 MR. WINCHESTER: Yes.
 9 MR. DONAHUE: These responses were also
 10 distributed by e-mail yesterday to the parties. Is it
 11 correct that these responses contain additional
 12 information with regard to the CLEC Coalition's
 13 response proposal?
 14 MR. WINCHESTER: Yes.
 15 MR. DONAHUE: And the CLEC Coalition's comments
 16 on the performance assurance plan and
 17 carrier-to-carrier metrics?
 18 MR. WINCHESTER: Yes.
 19 MS. ROBIDEAU: Yes.
 20 MR. DONAHUE: It also contains comments on the
 21 specific carrier-to-carrier metric information about
 22 Mid-Maine Communications and Revolution Networks that
 23 was recently provided to Mid-Maine and Revolution
 24 Networks?
 25 MR. WINCHESTER: That's correct.

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1 MS. ROBIDEAU: Correct.
 2 MR. DONAHUE: Mr. Winchester and Ms. Robideau, I
 3 show you what has been marked at CLEC Coalition Exhibit
 4 No. 3. Would you agree that this is a document that
 5 contains updates to declarations of Mid-Maine
 6 Communications and Revolution Networks which were
 7 completed this morning?
 8 MS. ROBIDEAU: Yes.
 9 MR. WINCHESTER: Yes.
 10 MR. DONAHUE: And are being distributed by
 11 e-mail to the parties today in addition to written
 12 copies being distributed at today's hearing?
 13 MR. WINCHESTER: Yes.
 14 MS. ROBIDEAU: Yes.
 15 MR. DONAHUE: And among the updates to the
 16 declarations within this document, you do address
 17 updates to checklist item No. 1 issues; is that
 18 correct?
 19 MR. WINCHESTER: Yes.
 20 MS. ROBIDEAU: That's correct.
 21 MR. DONAHUE: And both of you address checklist
 22 item No. 1 issues?
 23 MR. WINCHESTER: Yes.
 24 MS. ROBIDEAU: Yes.
 25 MR. DONAHUE: Finally, I'm placing before you,

1 Mr. Winchester and Ms. Robideau, what has been marked
2 as CLEC Coalition Exhibit No. 4, and, Mr. Winchester,
3 would you confirm that this is -- these are copies of
4 your copies of the staff's notes on the meetings that
5 took place between CLEC and Verizon with regard to
6 various issues between the CLECs and Verizon over a
7 period of several months in the year 2001?

8 MR. WINCHESTER: That is correct.

9 MR. DONAHUE: And Mr. Winchester and Ms.
10 Robideau, are you familiar with these meetings?

11 MR. WINCHESTER: Yes.

12 MS. ROBIDEAU: Yes.

13 MR. DONAHUE: Were you present at the meetings?

14 MR. WINCHESTER: Yes.

15 MR. DONAHUE: Were both of you present at all
16 three of the meetings?

17 MS. ROBIDEAU: No.

18 MR. WINCHESTER: I was present at all three.

19 MR. DONAHUE: And do you think these notes are a
20 reasonable representation of what took place at those
21 meetings?

22 MR. WINCHESTER: Yes, I do.

23 MR. DONAHUE: And do the -- are these meetings
24 discussed. Mr. Winchester, in your declarations in this
25 proceeding?

1 MR. CLEMONS: And is it also fair to say that,
2 given the existence of that dispute, the parties got
3 together, had a discussion and sorted out the issues
4 with regard to DC power as it relates to Revolution
5 Networks?

6 MS. ROBIDEAU: I think it is fair to say that I
7 received phone call from our account manager on January
8 16th asking to put together a conference call with some
9 other members of Verizon to discuss Revolution
10 Networks' 271 declarations with regard to DC power.

11 MR. CLEMONS: And did Ms. Maguire also indicate
12 to you that the issues that were raised by Revolution
13 Networks had only recently come to her attention as a
14 result of the declaration that was filed?

15 MS. ROBIDEAU: She did. However, in our
16 conversation, I had indicated to her that Revolution
17 Networks had been dealing with this issue since last
18 September with phone calls to other people and other
19 folks at Verizon, as well as a letter that we sent with
20 our September 10th billing indicating that we were
21 disputing the charges on this account.

22 MR. CLEMONS: And you are aware that there is a
23 billing dispute process that Verizon has for resolving
24 these type of issues?

25 MS. ROBIDEAU: Uh-huh.

1 MR. WINCHESTER: Yes, they are.

2 MR. DONAHUE: Ms. Robideau, did you discuss your
3 declaration?

4 MS. ROBIDEAU: No.

5 MR. BRANFMAN: What was the answer?

6 MS. ROBIDEAU: No.

7 MR. DONAHUE: No. Mr. Winchester and Ms.
8 Robideau are available for questioning on checklist
9 item No. 1. We'd be glad to make them available later
10 in the hearings for any questions relating to the
11 checklist item No. 1 issues that are addressed in their
12 updates to declarations which were filed today and are
13 contained in CLEC Coalition Exhibit No. 3.

14 EXAMINER BRAGDON: Verizon?

15 EXAMINATION OF MR. WINCHESTER and MS. ROBIDEAU:
16 BY MR. CLEMONS:

17 MR. CLEMONS: Thank you. With regard to Mid--
18 well, let's start with Revolution Networks. Is it fair
19 to say that at the time the supplemental checklist
20 declaration was filed by Verizon, that there was an
21 open dispute regarding the amount of DC power that
22 should be charged to your company?

23 MS. ROBIDEAU: Yes.

24 EXAMINER BRAGDON: Ginny, you need to speak up.

25 MS. ROBIDEAU: Yes. Sorry.

1 MR. CLEMONS: Did you ever report this issue to
2 your account manager?

3 MS. ROBIDEAU: Yes.

4 MR. CLEMONS: And when did you do that?

5 MS. ROBIDEAU: Back in September.

6 MR. CLEMONS: And has this issue since been
7 addressed to Revolution Networks' satisfaction at this
8 time?

9 MS. ROBIDEAU: The offer that was made by
10 Verizon in the January 16th conference call and at a
11 subsequent January 23rd telephone conversation that I
12 had with Karen, I think that Karen and I have agreed to
13 a billing error settlement from Verizon to my
14 satisfaction. I'll note that I haven't seen that exact
15 amount yet or on my billing, but yes.

16 MR. CLEMONS: Okay. And I'll ask the same
17 questions to Mid-Maine. Was there also an outstanding
18 dispute with Mid-Maine and Verizon regarding the DC
19 power issues at the time that Verizon filed a
20 supplemental checklist declaration?

21 MR. WINCHESTER: Yes, there were.

22 MR. CLEMONS: And have the parties subsequently
23 met and had an opportunity to resolve those issues with
24 respect to Mid-Maine?

25 MR. WINCHESTER: The parties had a conference

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1 call, discussed the particulars. There was a follow-up
2 conference call where a credit amount for the
3 overcharges was discussed. Nothing has been placed in
4 writing at this point in time, nor have we seen
5 anything on any bills at this point in time.

6 CHAIRMAN WELCH: Do you think you have an
7 agreement?

8 MR. WINCHESTER: There is -- there is a stated
9 amount that is supposed to be applied to the bill.

10 CHAIRMAN WELCH: Do you think you have an
11 agreement? I mean, in other words, did you reach -- in
12 your view, if that stated amount is credited, will you
13 consider this particular issue resolved?

14 MR. WINCHESTER: If that stated amount is
15 credited and the going forward billing is accurate,
16 yes, I would suggest that is correct.

17 MR. CLEMONS: One other question which I'm going
18 to ask of both of you. In your declarations, you
19 referred to the second feeds as redundant.

20 What did you mean by redundant?

21 MR. WINCHESTER: In our case when filling out
22 the collocation power paperwork that Verizon provides,
23 it was clear the paperwork said fill out the power
24 requirements of your scope or cage, whatever it was
25 that you were filing for, and list the requirement in

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1 the A side of that particular agreement. It also said
2 that list that same amount on the B side but do not add
3 the A and B together.

4 MS. ROBIDEAU: I'd add to that that it indicates
5 when you apply for whatever amount of amperage that you
6 want in your collocation arrangement, that it tells you
7 to apply for it as a quantity of one and do not add A
8 and B together.

9 MR. CLEMONS: Well, let me ask a more specific
10 question because I'm not sure that responded to my
11 question. My question was do you understand -- what do
12 you understand -- well, let me rephrase that.

13 Is it your contention that CLECs do not engineer
14 their equipment so that they use the A and the B feed
15 on a continuous basis?

16 MR. WINCHESTER: I'll answer that question in
17 that it depends on the equipment. Some equipment comes
18 with redundant power supplies, some do not, and so in
19 particular cases where equipment does not have
20 redundant power supplies, that particular equipment
21 cannot drain or draw from an A and a B side
22 simultaneously. If there is redundant power supplies,
23 then CLECs, in our particular case, we do. We'll do
24 load balancing with those feeds so that there is --
25 there is amperage, if you will, or power being drawn

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1 from both sides, never a maximum of the amount fused
2 but power being drawn from both sides.

3 MR. CLEMONS: So it's not the case that you have
4 an A feed that has all of the power being carried and a
5 second feed that is only being used if the first feed
6 fails; is that correct, in those circumstances in which
7 you have equipment that can be deployed across both
8 power feeds?

9 MR. WINCHESTER: That's correct.

10 MR. CLEMONS: And is that consistent with the
11 way Mid-Maine deploys its equipment?

12 MR. WINCHESTER: In its equipment it does have
13 redundant power supplies, yes.

14 MR. CLEMONS: And is that also the same for
15 Revolution Networks?

16 MS. ROBIDEAU: That's my understanding.

17 MR. CLEMONS: Okay. I have no further
18 questions.

19 EXAMINER BRAGDON: CTC?

20 MR. BRANFMAN: No questions.

21 EXAMINER BRAGDON: TAM?

22 MR. SANBORN: No questions.

23 EXAMINER BRAGDON: OPA?

24 MR. BLACK: No questions. Thank you.

25 EXAMINER BRAGDON: WorldCom?

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1 MS. CARNEY JOHNSON: No questions.

2 EXAMINER BRAGDON: I have a couple of questions,
3 and I'm looking at the discussion in the supplemental
4 declaration of Mid-Maine amendment to its
5 interconnection agreement and the discussion about a
6 global amendment relating to all UNE remand items.

7 Why did you not take the global amendment
8 offered by Verizon?

9 MR. WINCHESTER: In a discussion with our
10 attorney at the time who was handling that particular
11 agreement, Laura MacDonald who is referred to in that
12 supplemental declaration, there was language in some of
13 the UNE remand items that we were not going to either
14 utilize or use that we believed either negated or
15 compromised some of the existing language we had in our
16 agreement that we didn't want to give up at that point
17 in time.

18 We spent a lot of time and a lot of effort
19 negotiating specifics in our interconnection agreement,
20 and instead of spending a lot of time, energy and money
21 to rework the specific areas of those UNE remand items
22 that we didn't want, we decided to just pursue the two
23 items at the time which were dark fiber and DS removal.

24 CHAIRMAN WELCH: I have a general kind of a
25 general question, and it's actually out of the material

1 that's apparently still warm off of your copy machine.
 2 On page 2 of the updates to declarations, and this is
 3 sort of a broad question, it doesn't just apply to
 4 checklist item No. 1, although it may arise with
 5 respect to it; and I'm trying a better understanding of
 6 exactly what the position is of Mid-Maine and
 7 Revolution Networks with respect to whether the
 8 Commission should conclude that the checklist items
 9 have been met which relates to sort of the overall
 10 question. And as I read what you say, and it says
 11 first that there wouldn't be a satisfactory resolution
 12 of this proceeding until all currently outstanding
 13 disputes are resolved.

14 Now, if -- if that's the standard, doesn't that
 15 suggest that if, let's say, a dispute emerged every two
 16 weeks, you would never reach an end to this
 17 proceeding?

18 MR. WINCHESTER: No.

19 CHAIRMAN WELCH: So it isn't your intent to say
 20 that just because there happens to be a currently
 21 outstanding issue, that one could not nevertheless
 22 conclude that the checklist had been met?

23 MR. WINCHESTER: I think what we're saying in
 24 that particular piece is that it's hard for us to
 25 acknowledge that the checklist item has been met

1 make, but if you assume or if you were otherwise
 2 satisfied or the Commission were otherwise satisfied
 3 that there was a process in place going forward to
 4 resolve disputes that might come up under one or more
 5 of the checklist items, are there any disputes that are
 6 open right now that in your view, and when I say open,
 7 I mean disputes as to which no agreement has been
 8 reached, putting aside whether it's shown up in your
 9 bills yet, any disputes that are open right now on
 10 checklist item No. 1 that in your view are of such
 11 severity that the Commission should not conclude that
 12 the checklist has been met, assuming that future
 13 disputes can be resolved expeditiously and
 14 appropriately?

15 MR. WINCHESTER: If there is a process for doing
 16 that, then we would agree that checklist items could be
 17 met and that we would be comfortable going forward,
 18 knowing that there was a process in place to address
 19 those outstanding issues in a timely fashion.

20 CHAIRMAN WELCH: Thank you. And I'll just ask
 21 you since you happen to be here, and, unfortunately, I
 22 have -- the legislature calls this afternoon; I won't
 23 be around for most of the hearings.

24 Are there specific -- are there any checklist
 25 items as to which that general statement would not be

1 because we've been given verbal agreements or verbal
 2 commitments on credit amounts without having seen those
 3 credit amounts either be --

4 CHAIRMAN WELCH: Well, I understand that, but
 5 let's -- the checklist, as I read the checklist in the
 6 statute, it doesn't talk about the credit amount, it
 7 doesn't talk about power cables; it talks about, you
 8 know, broader things.

9 Is it your contention that so long as there's a
 10 dispute between a CLEC and Verizon as to something that
 11 would fall under one of the checklist items, as long as
 12 there's an open dispute, that the checklist item cannot
 13 be considered to have been met? And before you answer,
 14 I'll tell you that it does raise the interesting
 15 problem of, you know, you come up with a new dispute
 16 every two weeks and the proceeding lasts until the end
 17 of time.

18 MR. WINCHESTER: My answer to that question
 19 would be no. I think it deals with the severity of the
 20 outstanding issues that have not yet been resolved.
 21 All issues cannot be categorized into something that
 22 would cause a particular checklist item to fail.

23 CHAIRMAN WELCH: Okay. Let me ask this with
 24 respect to the checklist item No. 1 then. If you
 25 assume, and I'm not saying this is an assumption you

1 true? In other words, are there open, unresolved
 2 issues between you and Verizon which in your view,
 3 until those particular issues are resolved or of such
 4 severity, that the check list item could not be
 5 considered to be met, assuming, as always, that there
 6 is a process in place for resolving disputes as they
 7 arise in the future expeditiously and in your view
 8 appropriately?

9 MR. WINCHESTER: If the process is in place,
 10 there are no outstanding disputes that would not allow
 11 a checklist item to be met.

12 CHAIRMAN WELCH: Thank you. That's all the
 13 questions.

14 EXAMINER BRAGDON: Why did Mid-Maine choose,
 15 again, I'm going back to the amendment process to the
 16 interconnection, why did you choose to contact
 17 Verizon's counsel directly rather than go through
 18 Verizon's regular process?

19 MR. WINCHESTER: As stated in the -- our
 20 supplemental declaration, at the time that this
 21 additional amendment issue had come up, we had a change
 22 in staff personnel who had handled that specific area
 23 of Mid-Maine's dealings with Verizon, and, quite
 24 frankly, it was a process of unfamiliarity with how to
 25 get that going and simply it was a call made to a

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1 Verizon, a familiar face that I knew, to see how to get
 2 this started and where it would go. And that was a
 3 call to Don to say where are we best directed to get
 4 this particular process started. It certainly was in
 5 no way an attempt to work around the process or a
 6 method in place for getting this done.
 7 MR. HARTMAN: I'm looking at global versus what
 8 I'll call required changes in the interconnection
 9 agreement. In other words, you ask -- let's say you
 10 needed a specific service which wasn't in your
 11 interconnection agreement. There was another paragraph
 12 or two that had to be added to it, but in order to do
 13 that, there was other -- there were other changes that
 14 were suggested by Verizon to be included as a package?
 15 MR. WINCHESTER: I don't have the specifics on
 16 that. I was not involved in that particular
 17 interconnection amendment negotiation. My
 18 understanding of that particular situation is that
 19 there was language included in the entire LNE remand
 20 amendment that our attorney and people who were
 21 involved in that process at the time were not
 22 comfortable accepting, and they decided to choose and
 23 focus on the specific services that we wanted, not
 24 understanding what those other services provided in the
 25 LNE remand amendment, and it may be due to our existing

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1 interconnection agreement and its language.
 2 MR. HARTMAN: Was there difficulty in getting
 3 the focus changed from a global aspect to a
 4 particular?
 5 MR. WINCHESTER: I'm not sure of that
 6 particular.
 7 MR. HARTMAN: Okay. What I'm trying to figure
 8 out is that if it were, is there a remedy to basically
 9 say that. look, in the future, there are probably going
 10 to be son of LNE remands and other issues coming up
 11 like that, and it's like how do you handle this process
 12 to make sure that the CLECs have access to what they
 13 want as opposed to if you take -- in order for you to
 14 have this, you also have to take this, which could be a
 15 problem?
 16 MR. WINCHESTER: I think that we were able to
 17 establish that by just taking the dark fiber in the
 18 DS reloc loop amended portions of the LNE remand
 19 without any significant difficulty.
 20 MR. HARTMAN: Great. Okay. We can do power
 21 also on it? Are you familiar with the recent
 22 Pennsylvania -- okay.
 23 EXAMINER BRAGDON: You need to verbalize your
 24 answer for the record.
 25 MR. WINCHESTER: No.

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1 MR. HARTMAN: I probably needed to finish it.
 2 Okay. Thanks. I'll tell you where this was heading,
 3 just so you know. Is if someone were familiar with it
 4 and therefore could determine is it agreeable or
 5 amenable to the CLECs in Maine, then it would be
 6 looking at it saying, well, if it's been agreed in one
 7 Verizon state by Verizon, maybe it should be imported
 8 or whatever the proper term is to get it across the
 9 state boundary.
 10 MR. WINCHESTER: Not knowing the specifics, I
 11 wouldn't be able to answer that affirmatively.
 12 MR. HARTMAN: Okay. Thanks.
 13 EXAMINER BRAGDON: Any follow-up?
 14 MR. CLEMONS: Just one. Referring to paragraph
 15 6 of your Exhibit 3 that was submitted today, could you
 16 tell us who the regulatory affairs assistant who was
 17 contacted by Don Boecke was?
 18 MR. WINCHESTER: Suzanne Bains.
 19 MR. CLEMONS: And what is her background? What
 20 are her responsibilities and what are her professional
 21 background?
 22 MR. WINCHESTER: Her responsibilities are simply
 23 essentially to help coordinate some of the regulatory
 24 activities of Mid-Maine, specifically as it applies to,
 25 you know, requests made by myself or other principals.

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1 in the company to handle either interconnection
 2 agreement issues or amendment issues. She's a
 3 coordinator, if you will, a facilitator of contact.
 4 MR. CLEMONS: Okay. Thank you.
 5 EXAMINER BRAGDON: Thank you. Checklist item 1.
 6 CTC? Would you raise your right hand.
 7 (Witness sworn.)
 8 EXAMINER BRAGDON: Please state your name for
 9 the record.
 10 MR. DONNELLAN: Michael Donnellan from CTC
 11 Communications.
 12 EXAMINATION OF MR. DONNELLAN:
 13 BY MR. BRANFMAN:
 14 Q. Mr. Donnellan, do you have before you a document
 15 entitled declaration of CTC Communications Corp.?
 16 A. I do.
 17 Q. And were the portions of this document relating to
 18 checklist item No. 1 and checklist item No. 14 prepared
 19 by you or under your direction?
 20 A. Yes.
 21 Q. And was the other portion of this declaration prepared
 22 by Mr. Russell Oliver or under his direction?
 23 A. Yes, it was.
 24 Q. And do you have any corrections to this exhibit?
 25 A. No.

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1 MR. BRANFMAN: This exhibit has been marked as
 2 CTC No. 1, and I have a copy for the reporter, and the
 3 witness is available for cross-examination.
 4 EXAMINER BRAGDON: Verizon?
 5 EXAMINATION OF MR. DONNELLAN:
 6 BY MR. CLEMONS:
 7 Q. Good morning. Just to confirm, the 45 collocation
 8 arrangements you referred to in your checklist
 9 declaration paragraph No. 14, none of those are in
 10 Maine, are they?
 11 A. That's correct, they are not.
 12 Q. And, in fact, CTC has accepted all of their collocation
 13 arrangements in Maine; is that correct?
 14 A. Yes.
 15 Q. And you raised as you --
 16 MR. BRANFMAN: Just as a matter of
 17 clarification, on checklist item paragraph 14 refers to
 18 75 terminated collocation arrangements.
 19 MR. CLEMONS: I'm sorry.
 20 MR. BRANFMAN: It was a little confusing.
 21 Q. Were any of the 75 collocation arrangements in Maine
 22 that you referred to in paragraph 14?
 23 A. Were any of them in Maine?
 24 Q. Correct.
 25 A. No.

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1 Q. Now, CTC raised the same collocation issues in New
 2 Hampshire, Rhode Island and Vermont; is that correct?
 3 A. Yes.
 4 Q. And in the case of Rhode Island, the Commission
 5 approved Verizon's -- indicated that Verizon complied
 6 with checklist item No. 1; is that correct?
 7 A. I believe so. I'm not certain.
 8 Q. Now, are you aware -- were you involved in the filing
 9 of the testimony in Rhode Island with the FCC regarding
 10 Verizon's collocation arrangements? I'm sorry, strike
 11 that.
 12 Were you involved with the federal filing before
 13 the FCC by CTC in connection with Verizon's 271
 14 proceeding? ?
 15 A. No.
 16 Q. And, again, the collocation arrangements that you
 17 discussed in your testimony were collocations that you
 18 obtained from Verizon pursuant to FCC tariff No. 11; is
 19 that correct?
 20 A. That's correct.
 21 Q. Did you recently file an informal complaint with the
 22 FCC regarding those same arrangements?
 23 A. Yes.
 24 Q. And is that pending before the FCC at this time?
 25 A. Yes, it is pending.

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1 Q. Now, at the time you filed the Rhode Island testimony,
 2 you did not get filed that FCC complaint, had you?
 3 A. No.
 4 Q. And at the time proceedings were going on -- well, at
 5 the time of the hearings in New Hampshire, you hadn't
 6 filed that complaint either, had you?
 7 A. No.
 8 Q. The same response to Vermont?
 9 A. That's correct.
 10 MR. CLEMONS: I have no further questions for
 11 this witness.
 12 CHAIRMAN WELCH: Let me ask you the same
 13 question I asked the witnesses who were on before you.
 14 Are there issues currently outstanding between CTC and
 15 Verizon that in your view need to be resolved prior,
 16 again, assuming that there's a dispute resolution
 17 mechanism that's satisfactory, that need to be resolved
 18 prior to the Commission concluding that the checklist
 19 had been met?
 20 MR. DONNELLAN: Yes. I think there are. From
 21 CTC's perspective, three main areas in which Verizon
 22 claims to be compliant with the checklists and they're
 23 not. One is in terms of checklist item No. 1, and
 24 their policies and procedures are not in parallel with
 25 their tariff regarding the acceptance of collocation

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1 face. I'm not sure which checklist item it is, but the
 2 issue of dark fiber and termination points in dark
 3 fiber we believe to be in violation of the checklist,
 4 and the resale of special -- special contracts with
 5 customers we believe to be in violation of the resale
 6 checklist item I believe 14. So we believe that
 7 Verizon is -- has not complied with checklist items.
 8 CHAIRMAN WELCH: Okay. But -- so if the
 9 Commission were to condition its approval on a
 10 resolution of those, would that -- at that point would
 11 your answer be the same as the answer that the others
 12 gave?
 13 MR. DONNELLAN: If those items were corrected to
 14 our satisfaction, then we would not object to the
 15 approval of the 271 process.
 16 CHAIRMAN WELCH: Okay. Thank you.
 17 EXAMINER BRAGDON: Questions from any of the
 18 CLECS of Mr. Donnellan?
 19 MR. HARTMAN: Good morning.
 20 MR. DONNELLAN: Good morning.
 21 MR. HARTMAN: Have you had an opportunity to
 22 have -- request a change in your interconnection
 23 agreement due to, for example, a UNE remand?
 24 MR. DONNELLAN: Yes.
 25 MR. HARTMAN: Has it been successful?

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1 MR. DONNELLAN: It wasn't really a long
 2 negotiation process. Our contracts are due to expire
 3 shortly, so we just took the boilerplate standard and
 4 we'll begin to work on new agreements going forward.
 5 MR. HARTMAN: Okay. Do you have an opinion on
 6 going forward the issue of global amendment process
 7 versus required changes based on the needs of the
 8 CLECs?
 9 MR. DONNELLAN: I think the global process often
 10 forces terms and conditions that we may have negotiated
 11 in previous agreements or want to negotiate
 12 separately. I believe you need to have separate
 13 negotiating points for each CLEC.
 14 EXAMINER BRAGDON: Have you specifically
 15 accepted terms and conditions you otherwise would not
 16 have accepted in order to get a particular --
 17 a particular amendment you're looking for in order to
 18 get --
 19 MR. DONNELLAN: Sure.
 20 EXAMINER BRAGDON: -- a UNE remand item?
 21 MR. DONNELLAN: Yes.
 22 EXAMINER BRAGDON: Can you give me an example?
 23 MR. DONNELLAN: No, I don't have it. I could
 24 provide it later perhaps, but I don't have it off the
 25 top of my head; but I know that there are compromises

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1 that you make in order sometimes to move the process
 2 along.
 3 MR. HARTMAN: On power issues are you familiar
 4 with the recent agreement evidently between CLECs and
 5 Verizon in Pennsylvania?
 6 MR. DONNELLAN: No, I'm not. I believe Russ
 7 Oliver is very familiar with that, and he can provide
 8 you some guidance on that.
 9 MR. HARTMAN: Okay.
 10 MR. DONNELLAN: Unfortunately, he will not be
 11 here today or tomorrow.
 12 MR. HARTMAN: All right. Are you familiar with
 13 the rapid response process that has been proposed
 14 here?
 15 MR. DONNELLAN: Yes.
 16 MR. HARTMAN: What do you think?
 17 MR. DONNELLAN: I believe the concept is
 18 excellent. I think we need a forum where we can bring
 19 issues forward and get quick resolution to them. My
 20 concern is that it becomes another, and don't take this
 21 negatively, bureaucratic forum that requires a lot of
 22 administrative support to run and the hearings become
 23 extended.
 24 We're in a situation where, you know, we had
 25 hoped for a rapid response and we find ourselves three

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1 or four months later with the same situation still
 2 going through the process. So I think if it's framed
 3 properly, it could be very successful.
 4 MR. HARTMAN: It seems like the operative words
 5 are rapid and response?
 6 MR. DONNELLAN: That's correct.
 7 MR. HARTMAN: Okay. Nothing further.
 8 EXAMINER BRAGDON: Any follow-ups?
 9 MR. BRANFMAN: Yes.
 10 BY MR. BRANFMAN:
 11 Q. Mr. Donnellan, do you recall Mr. Clemons asking you
 12 about the informal complaint that CTC has filed with
 13 the FCC?
 14 A. Yes.
 15 Q. Does the pendency of that complaint in your mind make
 16 it unnecessary for this Commission to consider whether
 17 the issues that CTC has raised regarding Verizon's
 18 compliance with checklist item No. 1 in this
 19 proceeding?
 20 A. No, I think it's a separate process. We feel that
 21 Verizon is not in compliance with checklist item No. 1,
 22 as we stated -- as I stated in the declaration. This
 23 is just another venue, if you will, to proceed, but I
 24 believe that they remain in violation of checklist item
 25 No. 1.

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1 CHAIRMAN WELCH: Let me ask a question about
 2 that. If the FCC concludes either way in that
 3 proceeding, and, for example, if the Commission
 4 concluded that Verizon's practice did conform and the
 5 FCC concluded that it didn't, who would prevail?
 6 MR. DONNELLAN: I'm not a lawyer so I can't
 7 answer that.
 8 CHAIRMAN WELCH: What would you argue?
 9 MR. DONNELLAN: I would argue that it's
 10 dependent -- I mean the state, I guess has the
 11 control. I don't know, to be honest with you. I'd
 12 have to confer with my attorney on that. I would hope
 13 that you would reach the same conclusions.
 14 BY MR. BRANFMAN:
 15 Q. If I can follow up on that, Mr. Donnellan; what is the
 16 outcome of the FCC's informal complaint if the FCC
 17 rules in CTC's favor as you understand it? What will
 18 they do, what will come out of it?
 19 A. I think it would be -- it would direct Verizon to
 20 change their practices.
 21 Q. And also there's money at stake with CTC?
 22 A. A considerable amount of money at stake here, yes.
 23 Q. And is it possible that the FCC might rule with respect
 24 to the money that's at stake without creating a
 25 forward-looking ruling that requires Verizon to change

1 its practices?
 2 A. I guess that's possible.
 3 Q. And that informal complaint has nothing to do with
 4 whether -- nothing directly to do with whether Verizon
 5 receives its in-region interLATA authority to operate
 6 in Maine?
 7 A. That's correct. That's a different issue.
 8 EXAMINER BRAGDON: Are you through?
 9 MR. BRANFMAN: I do have another area to go
 10 into.
 11 EXAMINER BRAGDON: Okay. Yes.
 12 BY MR. BRANFMAN:
 13 Q. Do you recall Mr. Clemons asking you about whether any
 14 of the collocations that are in dispute between CTC and
 15 Verizon are located in Maine?
 16 A. Yes.
 17 Q. And your response was that they are not, correct?
 18 A. Correct.
 19 Q. Does that in your mind make it -- make the Verizon
 20 practices as reflected with respect to the collocations
 21 in other states irrelevant to this inquiry in Maine?
 22 A. No, it's very relevant because in practice and has been
 23 stated in testimony, the policies and practices are the
 24 same in Maine as they are in all of the other states.
 25 We just happen not to have run into a situation in

1 A. No.
 2 Q. Did you raise the dark fiber terminations issue in
 3 Vermont?
 4 A. Yes.
 5 MR. CLEMONS: I have no further questions.
 6 MR. BRANFMAN: If I may follow up on that?
 7 EXAMINER BRAGDON: Yes.
 8 BY MR. BRANFMAN:
 9 Q. When you raised the dark fiber issue in Rhode Island
 10 before the Commissioners, what was their response?
 11 A. They actually directed us to -- it wasn't my area of
 12 expertise, but I believe they directed us to join in a
 13 pending filing on the dark fiber that actually resulted
 14 in us coming to an agreement with Verizon and other
 15 CLECs to what we were looking for in terms of the
 16 availability of dark fiber.
 17 Q. And was the result in Rhode Island that the Commission
 18 ordered Verizon to make many of the changes to its dark
 19 fiber practices that CTC had been seeking?
 20 A. Yes.
 21 CHAIRMAN WELCH: Would the agreement -- if
 22 Verizon were to make available to you the same dark
 23 fiber agreement that was reached in Rhode Island, would
 24 that eliminate that as an item that would --
 25 MR. DONNELLAN: It's not my area of expertise.

1 Maine, but that doesn't mean it couldn't happen the
 2 next time we were involved in a collocation site.
 3 Q. With some other CLEC?
 4 A. Or another CLEC. Sure.
 5 MR. BRANFMAN: Thank you. No further
 6 questions.
 7 EXAMINER BRAGDON: Verizon, you had some
 8 follow-up?
 9 MR. CLEMONS: Yes, thank you.
 10 BY MR. CLEMONS:
 11 Q. In response to questioning, you indicated that there
 12 were three separate areas that you felt would need to
 13 be addressed before Verizon complied with checklist
 14 item No. 1; is that correct?
 15 A. Yes.
 16 Q. And did you raise all three of the issues in Rhode
 17 Island?
 18 A. Yes.
 19 Q. So you raised the resale --
 20 A. I'm sorry. No, we did not raise the resale issue in
 21 Rhode Island.
 22 Q. Did you raise the dark fiber termination issue in Rhode
 23 Island?
 24 A. Yes.
 25 Q. Did you raise the resale issue in Vermont?

1 but I believe it was about 80 percent of what we were
 2 looking for. We'd like the whole thing, but certainly
 3 it's a step in the right direction and would be a good
 4 framework for I think reaching an agreement.
 5 MR. CLEMONS: And just, counsel, we just need to
 6 clarify the status of the proceeding in Rhode Island.
 7 It was not an agreement between Verizon and carriers.
 8 The Commission ordered a certain result -- what the
 9 Commission asked CTC to do was enter an appearance in
 10 the pending docket that was reviewing the LNE remand
 11 element which included dark fiber. The Commission
 12 general ordered certain changes to Verizon's dark fiber
 13 offering. The Commission hasn't released its written
 14 order yet with respect to that matter.
 15 MR. BRANFMAN: I would like to correct that, the
 16 Commission has released its order, and I have a copy of
 17 it here.
 18 MR. CLEMONS: Oh, they've released the written
 19 order?
 20 CHAIRMAN WELCH: But other than that, was
 21 counsel's representation correct of the process?
 22 MR. BRANFMAN: Yes.
 23 CHAIRMAN WELCH: We don't hold witnesses to
 24 processing. We have better things to do. Okay. Thank
 25 you.

1 EXAMINER BRAGDON: Okay. Are you through?
 2 MR. CLEMONS: Yes.
 3 EXAMINER BRAGDON: You may be excused.
 4 COMMISSIONER DIAMOND: Well, let me just ask a
 5 quick question on the rapid response and your concern
 6 about it getting bogged down and being unduly
 7 bureaucratic. Short of dueling, do you have any sort
 8 of more efficient way of doing that or -- which I
 9 happen to support, by the way?
 10 CHAIRMAN WELCH: There's a lot of support for
 11 that.
 12 MR. DONNELLAN: It's unfortunate that we have to
 13 be in a situation where it does get so contentious. I
 14 wish that, and I've said it before right in this room,
 15 I wish Verizon would look at us as a valued customer.
 16 COMMISSIONER DIAMOND: I understand that.
 17 Assuming that we need a mechanism going forward, if
 18 we're able to resolve with a wave of a wand all the
 19 outstanding disputes, I'm operating from the premise
 20 and let me know if you disagree, that we're likely to
 21 have disputes in the future that can be equally
 22 important to the players. Is that a reasonable
 23 assumption?
 24 MR. DONNELLAN: Probably, yes.
 25 COMMISSIONER DIAMOND: Okay. So I would assume

1 EXAMINER BRAGDON: We're going to go back on the
 2 record. It looks like we're moving a little faster
 3 than had been anticipated, and given the potential for
 4 some bad weather on Thursday, we're going to try and
 5 get everything in in two days. The problem is the
 6 Public Advocate's witnesses aren't going to be here
 7 until tomorrow, but right now let me just put on the
 8 record that the CLEC Coalition has indicated the
 9 quarter of an hour they had reserved on Ellen Key they
 10 are no longer reserving, and unless anyone else at in
 11 point has an interest in crossing Verizon on Ellen Key,
 12 I'm going to excuse that person from showing up.
 13 Okay. Gone.
 14 I guess what we'll do is we'll just sort of keep
 15 updating when we come back from breaks in terms of
 16 availability. I think Verizon is checking into whether
 17 their poles and conduit person can be here tomorrow.
 18 So that's what I see happening. Tomorrow may be a long
 19 day, but it seems to make more sense than trying to
 20 come back for an hour on Thursday. So with that, we
 21 will move on to checklist item 14 which is resale.
 22 EXAMINER BRAGDON: Would you please raise your
 23 right hands.
 24 (Witnesses sworn.)
 25 EXAMINER BRAGDON: Would you each state your

1 then that dispute resolution rises very much close to
 2 the top, if not at the top, to making this a successful
 3 mode -- a successful approach. Is that a fair
 4 assumption?
 5 MR. DONNELLAN: That's correct. So we need a
 6 forum to move that forward.
 7 COMMISSIONER DIAMOND: Right. And do you have
 8 any specific suggestions beyond those that have been
 9 offered?
 10 MR. DONNELLAN: No. I think it needs to focus
 11 on rapid and results, as we said before, and if we can
 12 frame it in that respect, then I think we will be
 13 successful. Without that as kind of the -- an overall
 14 theme of the process, then we can get bogged down and
 15 it would be detrimental, actually.
 16 COMMISSIONER DIAMOND: Has CTC offered in any of
 17 the proceedings in other jurisdictions any sort of
 18 model for what the dispute resolution might look like?
 19 MR. DONNELLAN: No.
 20 COMMISSIONER DIAMOND: Thank you.
 21 EXAMINER BRAGDON: Anything further? Okay.
 22 Thank you. I think we're all set. We're going to
 23 break a few minutes early because it's a good breaking
 24 place. We'll be back in 15 minutes.
 25 (A short break was taken.)

1 names for the record.
 2 MS. MAHER: Josephine Maher.
 3 MS. ABESAMIS: I'm Beth Abesamis.
 4 MR. MAGUIRE: Tom Maguire.
 5 MS. CANNY: Julie Canny.
 6 MR. BOECKE: I have a question just for the
 7 panel, I guess. All of you in one way or form had
 8 something to do with the declarations that have been
 9 prepared by Verizon in this case dealing with the issue
 10 of resale; is that correct?
 11 MR. MAGUIRE: Yes.
 12 MS. ABESAMIS: Yes.
 13 MS. CANNY: Yes.
 14 MS. MAHER: Yes.
 15 MR. BOECKE: And, Ms. Maher, you were the
 16 principal person dealing with that section of the
 17 declaration?
 18 MS. MAHER: Yes.
 19 MR. BOECKE: Are there any changes or
 20 corrections that need to be made to either the October
 21 18th declaration or the supplemental declaration?
 22 MS. MAHER: We did provide the Commission with
 23 the updates.
 24 MR. BOECKE: Right. Other than the updates?
 25 MS. MAHER: No.

1 MR. BOECKE: The witnesses are available for
 2 cross.
 3 EXAMINER BRAGDON: Thank you. CTC?
 4 EXAMINATION OF PANEL:
 5 (Ms. Maher, Mr. Maguire, Ms. Abesamis, Ms. Canny).
 6 MR. BRANFMAN: Thank you. I'll ask you to turn
 7 to paragraph 150 of the supplemental checklist
 8 declaration.
 9 EXAMINER BRAGDON: I'm sorry. Could you tell me
 10 what page that was again?
 11 MR. BRANFMAN: I've got it on pages 80 and 81.
 12 And in that paragraph you say that CTC didn't point to
 13 any examples relating to CSAs in Maine but only pointed
 14 to an instance in New York, correct?
 15 MS. MAHER: That's correct.
 16 MR. BRANFMAN: And do Verizon's policies in
 17 Maine regarding the resale of CSAs differ from its
 18 policies in New York?
 19 MS. MAHER: No, they don't.
 20 MR. BRANFMAN: And also in paragraph 150, you
 21 state that CSAs should include confidentiality clauses,
 22 correct?
 23 MS. MAHER: I'm sorry. I have the -- a
 24 different version. I apologize. That's correct.
 25 MR. BRANFMAN: And what you're saying is the

1 me right now, but it does say that neither party can
 2 disclose any specifics similar to -- any specifics to
 3 any other third-party.
 4 MR. BRANFMAN: So that would include CTC or
 5 another CLEC. correct?
 6 MS. MAHER: Yes, unless they're going to take
 7 over and migrate that customer.
 8 MR. BRANFMAN: So is there a provision in the
 9 contract that creates an exception for a case in which
 10 a CLEC takes over and migrates the customer?
 11 MS. MAHER: If the contract states that there
 12 is. If there is a -- if there is an assignment clause
 13 in the contract that allows that, yes.
 14 MR. BRANFMAN: I wonder if we can have a record
 15 request, since we don't have these contracts and you
 16 say you don't have a copy with you, to provide a
 17 typical contract with respect to the -- which is
 18 typical with respect to the confidentiality provision?
 19 MS. MAHER: Sure.
 20 EXAMINER BRAGDON: That would be record request
 21 No. 1.
 22 MR. BRANFMAN: And would you agree that if the
 23 customer is interested in comparison shopping with a
 24 CLEC with more favorable terms and conditions than
 25 Verizon is providing it, the customer should be

1 purpose of the confidentiality clause is to protect the
 2 customer's confidential information; is that right?
 3 MS. MAHER: Yes, it is.
 4 MR. BRANFMAN: And you state that the customer
 5 is not precluded from disclosing its contract to a
 6 CLEC. correct?
 7 MS. MAHER: What I say here is that when an end
 8 user wants to migrate over to a CLEC or a reseller,
 9 then they can certainly provide information to the
 10 reseller.
 11 MR. BRANFMAN: Now, isn't it true that your CSAs
 12 typically contain clauses that preclude the customer
 13 from disclosing its own CSA in its entirety or its
 14 terms with a competing carrier?
 15 MS. MAHER: That is correct. When they are --
 16 well, not to a competing carrier. The reason for that
 17 clause was put in for not allowing disclosure to other
 18 customers.
 19 MR. BRANFMAN: Well, is the clause worded so as
 20 to distinguish between disclosure to other customers
 21 and disclosure to CLECs?
 22 MS. MAHER: No, but the intent was there prior
 23 to obviously the act.
 24 EXAMINER BRAGDON: What does the language say?
 25 MS. MAHER: I don't have the exact language with

1 permitted to disclose its contract with a CLEC so that
 2 the CLEC can see whether it can match or beat the terms
 3 that Verizon is providing?
 4 MS. MAHER: I would hope that in the negotiation
 5 with a customer, the end user would be telling the CLEC
 6 what it is they're getting from Verizon.
 7 MR. BRANFMAN: But I'm now focusing on the
 8 contract between Verizon and the customer. Do you
 9 agree that that contract should leave the customer
 10 free, if it chooses to, to provide a copy of the
 11 contract to a CLEC that is proposing to offer -- offer
 12 an arrangement to the customer?
 13 MS. MAHER: As I stated earlier, of course, in
 14 the normal course of negotiation with any end user
 15 customer, that would happen, and in any negotiation
 16 with anyone, that your existing contract, your existing
 17 rates or your existing everything would be negotiated
 18 with that customer so that they know what the CLEC can
 19 offer you or not.
 20 Now, that -- the intent of that nondisclosure,
 21 as I stated earlier, the intent of that was stop or
 22 prohibit the end user from sharing that specific
 23 customer pricing information that they got from Verizon
 24 with any other end user customer. It didn't
 25 specifically state that it couldn't share that

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1 information with respect to resellers.
 2 MR. BRANFMAN: Well, if it says they can't share
 3 it with a third-party, wouldn't a reseller be a
 4 third-party?
 5 MS. MAHER: Yes, but that was prior to any of
 6 the other, you know, resellers coming in and
 7 negotiating with end user customers regarding CSAs.
 8 EXAMINER BRAGDON: Excuse me. Has Verizon ever
 9 taken any action in response to finding out that a
 10 customer disclosed the terms of their Verizon customer
 11 contract to a CLEC?
 12 MS. MAHER: Not that I'm aware of, no.
 13 CHAIRMAN WELCH: Would Verizon have any
 14 objection to the Commission imposing as a condition of
 15 271 -- a favorable 271 recommendation that the
 16 contracts includes a term that the customer may
 17 disclose any information it chooses, subject to some
 18 additional proprietary protection by the CLEC to a CLEC
 19 with whom they're negotiating?
 20 MS. MAHER: It is my understanding that that was
 21 the intent anyway, so I would not have an issue with
 22 that.
 23 CHAIRMAN WELCH: Thank you.
 24 MR. BRANFMAN: Moving to paragraph 151,
 25 Verizon is proposing two additional measures in

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1 response to the points that CTC raised, correct?
 2 MS. MAHER: Yes.
 3 MR. BRANFMAN: And going forward to proposing
 4 that for future CSAs, Verizon will provide to the
 5 Commission a redacted summary of the -- of the
 6 agreements of CSAs with its end user customers,
 7 correct?
 8 MS. MAHER: It is -- what we're proposing is
 9 that the information that the regulatory folks
 10 currently -- that Verizon currently provides to the
 11 Commission will be redacted, yes, in removing the
 12 customer's name and number and pertinent information.
 13 MR. BRANFMAN: And then the point would be that
 14 that information would be available through the
 15 Commission to the CLECs that may be interested in
 16 reselling that CSA, correct?
 17 MS. MAHER: Yes, that's correct, to any CLEC.
 18 MR. BRANFMAN: And what information would be
 19 available to the CLEC to determine whether it wished to
 20 resell that CSA?
 21 MS. MAHER: Well, things like the terms of the
 22 contract, the product, the volume and the specific
 23 price that was offered to that end user.
 24 MR. BRANFMAN: Now, you said the terms of the
 25 contract with a plural S on the end rather than the

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1 term of the contract?
 2 MS. MAHER: Sorry. The term.
 3 MR. BRANFMAN: So the term would be the
 4 duration?
 5 MS. MAHER: Duration of the contract, right.
 6 MR. BRANFMAN: Right. But there are many terms
 7 in the contract. In addition to duration, the price
 8 and the volume, correct?
 9 MS. MAHER: Yes, but that would only be provided
 10 once the initial -- once the reseller went -- came to
 11 the Commission and decided that that was a contract
 12 they wished to resell. Then at that point if the
 13 reseller wanted to resell that specific CSA, then we
 14 would discuss the specific terms and conditions.
 15 MR. BRANFMAN: So the reseller --
 16 MS. MAHER: This is just as a tool so that the
 17 resellers know what CSAs are out there and if they have
 18 similarly situated customers that they can resell CSAs
 19 to.
 20 MR. BRANFMAN: Okay. So hypothetically if CTC
 21 went to the Commission, looked through these files and
 22 summaries, found one that it wanted to resell and then
 23 came to Verizon and said I'd like to know more about
 24 this contract, for example, when is the termination
 25 liability, you would provide that?

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1 MS. MAHER: Yes, I do.
 2 MR. BRANFMAN: And that's not set forth in your
 3 declaration, is it?
 4 MS. MAHER: Well, no, it isn't because this is
 5 just a preliminary. One of the complaints was that
 6 they had -- it was a catch 22. They had nowhere to get
 7 this information on CSAs, and so what we did was
 8 provide a tool for them to get the preliminary
 9 information so that resellers can go to the Commission,
 10 get the preliminary information and then decide whether
 11 they have a similarly situated customer that could
 12 possibly meet those terms and condition and volume and
 13 whatnot, and then they can get more information from us
 14 if they choose to.
 15 MR. BRANFMAN: Okay. At that point when the
 16 CLEC comes to Verizon and says, I'd like to know more,
 17 does the CLEC find out all of the terms of the contract
 18 other than the customer's name?
 19 MS. MAHER: Yes.
 20 MR. BRANFMAN: And you would agree that that
 21 would be appropriate because a party can't enter into a
 22 contract unless it knows all of the terms of the
 23 contract?
 24 MS. MAHER: That's right.
 25 MR. BRANFMAN: Now, with respect to new CSAs,

1 how soon after the CSA is entered into would this
2 summary be made available through the Commission to
3 CLEC resellers?

4 MS. MAHER: The new CSAs, as soon as the
5 regulatory folks file their notification to the
6 Commission, that information would be available to the
7 resellers.

8 MR. BRANFMAN: I'm not sure what that means. If
9 you enter into a -- let's suppose you enter into --

10 CHAIRMAN WELCH: How long does it take from the
11 time the contract is signed till the time it gets to
12 the Commission?

13 MS. MAHER: I'm sorry. I'm not the regulatory
14 person. I can't answer what the time span is, but I
15 don't believe it's that long.

16 CHAIRMAN WELCH: Don, do you know how long that
17 is?

18 MR. BOECKE: I wouldn't hesitate a guess.
19 Typically the contract, once it's signed, there's some
20 work that needs to take place before the contract is
21 implemented, so it's in that interim that we file it
22 with the Commission.

23 CHAIRMAN WELCH: Are we talking days, weeks,
24 months?

25 MR. BOECKE: Probably weeks.

1 Commission that we did not have to file the CSAs that
2 were signed.

3 MR. BRANFMAN: But wouldn't you agree that the
4 proposal you made introduces an additional step because
5 the CLEC reseller has to look at the summary, then he
6 has to go to Verizon and say, I'm interested in this.
7 I'd like to see the whole contract, minus the
8 customer's name, whereas if you did it the other way,
9 the entire contract would be on file with the
10 Commission and they wouldn't have to come to you and
11 inject further delay in the process?

12 MS. MAHER: Well, I guess that if we were -- if
13 we were asked to by the Commission to provide the
14 contracts, then that would be one thing we would have
15 to do.

16 MR. BRANFMAN: Under your proposal if the CLEC
17 contacted you, say, today and said contract X is of
18 interest to me and I'd like to see the rest of contract
19 X, how long would it take before Verizon would provide
20 the full contract redacted?

21 MS. MAHER: It would depend because I'd have to
22 go to regulatory to get that information, maybe a week
23 or so. I'm guessing.

24 MR. BRANFMAN: Well, would you agree it would be
25 a good thing if -- if that interval was prescribed so

1 CHAIRMAN WELCH: Okay. Thank you.

2 MR. BRANFMAN: And if I understand you
3 correctly, you're saying there wouldn't be any
4 additional delay while people sit around and prepare a
5 summary of this contract; is that correct?

6 MS. MAHER: No. The contract has already been
7 signed with the end user. The summary that you're
8 getting that's going to be filed with the Commission
9 will be at the exact same time that they file that a
10 new contract has been signed with a retail end user.

11 That date, if you're up there and you want to
12 look at the summary, you certainly can.

13 MR. BRANFMAN: And are you telling me that the
14 preparation of the summary is not going to prolong the
15 period between the entry into the contract and the
16 filing with the Commission?

17 MS. MAHER: No.

18 MR. BRANFMAN: Now, is there any reason why,
19 instead of going to the trouble of summarizing the
20 contract, you can't just redact the customer's name and
21 file that with the Commission?

22 MS. MAHER: Well, as it stands right now, we
23 don't file any of those contracts with the
24 Commissions. This is a tool to help resellers resell
25 CSAs. That decision was made between Verizon and the

1 that the CLEC would know how long it would have to
2 wait, assuming that you had to take the second step of
3 going to Verizon to get the details of the contract?

4 MS. MAHER: Well, I think what we're saying is
5 that we're working to get that information to the
6 reseller, and we would get that information as quickly
7 as we could. I wouldn't want to be bound by saying you
8 have to get it in a day or a week because it depends on
9 what's happening at the time.

10 CHAIRMAN WELCH: Josephine, can you give me a
11 rough idea of what the volume of these contracts is? I
12 mean if you -- how many summaries do you -- would you
13 file in a year, let's say?

14 MS. MAHER: Sorry. I don't know. I know that
15 we have approximately about a hundred right now.

16 CHAIRMAN WELCH: So we're not talking
17 thousands, we're talking --

18 MS. MAHER: No, we're not.

19 CHAIRMAN WELCH: -- dozens or scores?

20 MS. MAHER: Right.

21 CHAIRMAN WELCH: From a business perspective,
22 is there any reason why you would care one way or the
23 other whether you just filed a redacted copy of the
24 contract or filed a summary with the Commission?

25 MS. MAHER: Okay. First of all, I just have to

1 say I'm not the regulatory person.
 2 CHAIRMAN WELCH: I know. That's why I asked
 3 you from a business perspective.
 4 MS. MAHER: And so from a business perspective,
 5 to me, I guess as long as we were not providing any of
 6 the proprietary information to resellers and we weren't
 7 holding that --
 8 CHAIRMAN WELCH: And the proprietary
 9 information is basically the customer identity?
 10 MS. MAHER: The customer identity, the address,
 11 the phone number, all of that.
 12 CHAIRMAN WELCH: Right. Things that would
 13 enable somebody to find the customer?
 14 MS. MAHER: That's correct.
 15 CHAIRMAN WELCH: Okay. But other than that,
 16 you wouldn't care if the contract itself were filed
 17 without all that proprietary information?
 18 MR. MAGUIRE: I guess one of the questions I
 19 would have is whether or not it would be -- open up --
 20 would there be some sort of proprietary agreement with
 21 the parties that would potentially view that
 22 agreement. So, for example, would only CLECs be
 23 allowed to look at that or would it be open to --
 24 CHAIRMAN WELCH: Okay.
 25 COMMISSIONER DIAMOND: Why is that different --

1 about the new contracts, but you mentioned that there
 2 were about a hundred already in existence.
 3 Your proposal would be to summarize those
 4 hundred contracts?
 5 MS. MAHER: Yes. We've been working on getting
 6 a file ready or have a draft copy that we can provide
 7 that gives information regarding the existing contracts
 8 today. It's still a work in progress but, yes, we do
 9 have something that we're working on.
 10 MR. BRANFMAN: And approximately how long do you
 11 think it will take before Verizon is able to file that
 12 to the Commission if the summary proposal goes
 13 forward?
 14 MS. MAHER: Well, the draft proposal I think I
 15 can give to you right now. I only have two copies, but
 16 I can certainly provide that, and we figure by the
 17 filing date which is February 15th.
 18 MR. BRANFMAN: So you would propose to have all
 19 the summaries ready for the Commission by February
 20 15th?
 21 MS. MAHER: Yes.
 22 MR. BRANFMAN: And alternatively, it wouldn't
 23 take you any longer to provide the redacted contracts
 24 if that was the way the Commission decided it was more
 25 appropriate, correct?

1 different if it's a summary versus filing a redacted
 2 form of the contract? Anyone? I'm just saying the
 3 point that you made is you'd be concerned that -- when
 4 you talk about individuals other than CLECs seeing it,
 5 are you talking about just filing a redacted form of
 6 the contract or does that apply to a summary being
 7 filed as well?
 8 MR. MAGUIRE: I was referring specifically to
 9 the redacted form of the contract.
 10 COMMISSIONER DIAMOND: And so why is it
 11 different from the two situations?
 12 MS. MAHER: I'd have to disagree. I think that
 13 anything that we file with the Commission regarding
 14 those contracts should be available to CLECs and
 15 resellers only because part of that proprietary
 16 information and the nondisclosure and whatnot is to
 17 ensure that Verizon doesn't get into a bidding war with
 18 different end user customers.
 19 CHAIRMAN WELCH: And the summary would show
 20 that same kind of information, right?
 21 MS. MAHER: That's right.
 22 MR. MAGUIRE: My comments were actually applied
 23 to both.
 24 CHAIRMAN WELCH: I understand.
 25 MR. BRANFMAN: Now, I think we've been talking

1 MS. MAHER: I'd have to check with the
 2 regulatory folks up here, the staff folks.
 3 MR. BRANFMAN: Now, does Verizon typically
 4 include a nonassignment clause in a CSA?
 5 MS. MAHER: Typically, and as far as general
 6 contracts go, yes. There is -- an assignment clause is
 7 normal contract practice.
 8 MR. BRANFMAN: And what do those clauses say
 9 about assignment? Are they -- do they prohibit
 10 assignment or do they condition it on Verizon's consent
 11 or something else?
 12 MS. MAHER: It may be both, depending on the way
 13 the contract was negotiated and filed.
 14 MR. BRANFMAN: So some contracts contain an
 15 absolute prohibition on an assignment even with
 16 Verizon's consent; is that right?
 17 MS. MAHER: I can't specifically say for the
 18 State of Maine, but under normal practices, there could
 19 be some that prohibit assignment, but I believe that in
 20 Maine the nondisclosure -- the assignment clause does
 21 say with that you can't assign the contract without the
 22 consent of either party.
 23 MR. BRANFMAN: Now, do you agree that as long as
 24 it's not unreasonable to assign it, that the contracts
 25 should be subject to assignment with Verizon's consent

1 which will not be unreasonably withheld?
 2 MS. MAHER: I'm sorry.
 3 MR. BRANFMAN: That was a little tangled.
 4 You're -- are you familiar with contracts that include
 5 a consent clause that also say that consent shall not
 6 be unreasonably withheld?
 7 MS. MAHER: No.
 8 MR. BRANFMAN: So they just say consent and they
 9 don't indicate whether the consent may or may not be
 10 unreasonably withheld?
 11 MS. MAHER: I don't think it says that, but,
 12 again, you're talking the retail contracts and I'm not
 13 100 percent sure what those contracts say.
 14 MR. BRANFMAN: And perhaps we could benefit from
 15 a record request there which would provide the typical
 16 language with respect to --
 17 CHAIRMAN WELCH: Wouldn't that be part of --
 18 didn't you also make a record request for a contract?
 19 MR. BRANFMAN: Okay. Hopefully the contract we
 20 get will be typical as to both is what I'm looking for
 21 because it may be typical as to the first point but
 22 atypical as to the second.
 23 Would you agree that if Verizon were to
 24 unreasonably withhold its consent, that would impair
 25 the ability of CLECs to take assignments of contracts

1 from reselling CSAs, but the issue that you're getting
 2 mixed up here is that we do sell, as mandated by the
 3 act, we resell CSAs to similarly situated customers.
 4 What we're talking about is taking an existing -- an
 5 already existing contract that was made that went into
 6 by two parties, two parties went into that agreement,
 7 and now you're asking us to take away our part of the
 8 contract to be able to assign to another party.
 9 MR. BRANFMAN: But you would agree that that
 10 would prevent a reseller from taking assignment of
 11 those contracts, correct?
 12 MS. MAHER: The nonassignment clause, yes.
 13 MR. BRANFMAN: And what is the purpose of the
 14 nonassignment clause?
 15 MS. MAHER: Like any contract, you enter into a
 16 contract between two people. You do not want to be
 17 able to have anyone assign that contract to anyone out
 18 there. Those two people came into a contract and the
 19 decision was made on what that contract was going to
 20 be.
 21 MR. BRANFMAN: Well, would Verizon be injured if
 22 a CLEC were to take assignment of that contract?
 23 MS. MAHER: I'm not sure I understand how --
 24 MR. BRANFMAN: How would Verizon be injured if
 25 instead of the contract being between Verizon and Joe's

1 from end user customers?
 2 MS. MAHER: But currently our policy is that if
 3 there is a nonassignment clause in the contract, we
 4 will not consent to that assignment.
 5 COMMISSIONER DIAMOND: Sorry. You have to speak
 6 up a little bit louder. I didn't hear the last part of
 7 it.
 8 MS. MAHER: Our policy right now is that if
 9 there is a nonassignment clause in the contract, then
 10 Verizon would not agree to the assignment of that
 11 contract. The reason being is that there was a
 12 contract between the end user and Verizon, and we
 13 expect that those terms and conditions be met by both
 14 parties.
 15 MR. BRANFMAN: Is that term in the contract one
 16 that is easily negotiable if the end user customer
 17 wants to change it, if Verizon is willing to strike
 18 that clause from the contract on a request of an end
 19 user?
 20 MS. MAHER: I'm not the one to answer that.
 21 MR. BRANFMAN: Well, do you agree that if there
 22 are a great many CSAs which have nonassignment clauses
 23 and Verizon is unwilling to consent to assignment, that
 24 will restrict resellers from reselling those CSAs?
 25 MS. MAHER: No, we do not restrict resellers

1 Tire Shop, it becomes a contract between Verizon and a
 2 CLEC to provide service to Joe's Tire Shop?
 3 MS. MAHER: Well, as I said earlier, that
 4 contract was based on the decision that that customer
 5 went into a contract with Verizon. We are now going to
 6 provide that to a CLEC? We're getting rid of that
 7 contract; we are going to assign it?
 8 MR. BRANFMAN: How is Verizon injured is my
 9 question?
 10 MS. MAHER: We're losing the --
 11 CHAIRMAN WELCH: Let me -- what I think he's
 12 asking you is the particular kind of assignment he's
 13 talking about is that the only thing that changes is
 14 the name on the contract, if that. Basically the CLEC
 15 steps into the shoes of the customer.
 16 MS. MAHER: The end user.
 17 CHAIRMAN WELCH: So you still get your money on
 18 time; the service you provide is exactly the same.
 19 Nothing changes as far as your money coming in, except
 20 the fact that the CLEC has the customer contact.
 21 MS. MAHER: Right, and we have lost the
 22 relationship with that end user.
 23 MR. BRANFMAN: And other than the loss of the
 24 relationship with the end user, can you point to any
 25 other way that Verizon is injured if the CLEC takes

1 assignment of this contract?
 2 MS. MAHER: No.
 3 MR. BRANFMAN: Now, I'll direct your attention
 4 to paragraph 148.
 5 MS. CANNY: Is this in the supplemental
 6 declaration?
 7 MR. BRANFMAN: Yes, supplemental declaration,
 8 the last sentence. You say that the application of the
 9 resale discount is therefore not appropriate in an
 10 assignment situation; is that right?
 11 MS. MAHER: That's right.
 12 MR. BRANFMAN: And when a CLEC acquires a
 13 customer that had been taking tariff service from
 14 Verizon and begins to resell that tariff service to the
 15 same customer, does it buy that service from Verizon at
 16 an avoided cost discount?
 17 MS. MAHER: If it is a noncontracted tariff
 18 item, yes.
 19 MR. BRANFMAN: And that would be true as to, for
 20 example, the WorkSmart package?
 21 MS. MAHER: WorkSmart packages, I believe, have
 22 an agreement, a term agreement, and if there is a term
 23 agreement, then -- and the reseller takes that over and
 24 there's not an assignment clause in there, then there
 25 would not be the discount in there. So it would depend

1 over that mi -- when that end user migrates to that
 2 reseller.
 3 When specific -- customer specific contracts are
 4 designed, Verizon has already incurred all the costs
 5 from marketing and billing and setting that account up.
 6 so by -- by providing the discount to that, then we're
 7 losing all the more on that.
 8 MR. BRANFMAN: Well, in the calculations of the
 9 avoided cost discount, didn't Verizon, in addition to
 10 the categories of expenses you just mentioned, also
 11 consider avoided costs in the areas of billing,
 12 collection and customer service?
 13 MS. MAHER: Yes.
 14 MR. BRANFMAN: And when a CLEC assumes or takes
 15 assignment of a CSA, doesn't Verizon avoid the billing
 16 and collection costs just as it does when a CLEC takes
 17 over a customer receiving a tariff service?
 18 MS. MAHER: No, because in the beginning when
 19 that contract was signed, all the marketing and billing
 20 and whatnot to set that contract up, all those costs
 21 were incurred in the beginning.
 22 MR. BRANFMAN: Well, doesn't Verizon incur costs
 23 every month in sending out a bill to customers?
 24 MS. MAHER: We do avoid that piece of it, yes.
 25 MR. BRANFMAN: And the collection cost as well?

1 on, again, I'd have to look at specifically the
 2 WorkSmart contract to see what that assignment clause
 3 said.
 4 MR. BRANFMAN: Well, WorkSmart is tariffed,
 5 isn't it?
 6 MS. MAHER: Yes, but there is an agreement that
 7 the end user signs as well.
 8 MR. BRANFMAN: So you're saying that depending
 9 on what the agreement says, the CLEC may or may not get
 10 the wholesale discount?
 11 MS. MAHER: If they're going to take assignment
 12 of that existing one, right.
 13 MR. BRANFMAN: And what would it depend on?
 14 MS. MAHER: What it said in the specific
 15 agreement.
 16 MR. BRANFMAN: Is there language in the specific
 17 agreement that would say that a CLEC does or doesn't
 18 get an avoided cost discount if they take assignment?
 19 MS. MAHER: No.
 20 MR. BRANFMAN: What would you look to in the
 21 specific agreement to decide whether the CLEC does or
 22 doesn't get the avoided cost discount?
 23 MS. MAHER: The avoided cost discount was
 24 designed to meet the avoided costs that Verizon
 25 incurred when -- or doesn't incur when a reseller takes

1 MS. MAHER: Yes.
 2 MR. BRANFMAN: And the customer service cost
 3 when, for example, the customer picks up their phone
 4 and finds that there's no dial tone? If the contract
 5 has been assigned, they call a CLEC, right?
 6 MS. MAHER: That's correct.
 7 MR. BRANFMAN: So Verizon avoids costs in the
 8 customer service area, too, in the case of an assigned
 9 contract, right?
 10 MS. MAHER: But that contract, again, we need to
 11 be made whole for that contract that was originally
 12 negotiated with that end user customer.
 13 MR. BRANFMAN: And your answer is yes, it avoids
 14 the costs in the customer service area?
 15 MS. MAHER: For the remaining time, not for the
 16 whole contract.
 17 MR. MAGUIRE: But I don't --
 18 MR. BRANFMAN: For the remaining time?
 19 MR. MAGUIRE: I don't know that they avoid the
 20 costs from the customer service perspective because in
 21 the example you mentioned where they lose dial tone, it
 22 turns out to be a service problem.
 23 MR. BRANFMAN: Well, isn't that also true when a
 24 CLEC resells a tariff service?
 25 MR. MAGUIRE: Yes.

1 MR. BRANFMAN: So to the extent that the avoided
2 cost calculation considers avoided costs -- avoided
3 customer service costs in the tariff case, it would
4 apply equally in the CSA case, correct?

5 MS. MAHER: But that rate was specifically
6 designed to calculate all of those costs upfront. So
7 the reseller --

8 MR. BRANFMAN: Customer service costs upfront?

9 MS. MAHER: No, no. There's a rate for that
10 contract, okay, that the end user is receiving. It was
11 designed to be able to recapture all those costs
12 upfront, the termination liability, everything. So
13 when we provide assignment or a reseller takes
14 assignment of that contract, if we are not made whole
15 and we provide the discount on that already discounted
16 rate, it's an additional discount you're receiving.

17 MR. BRANFMAN: Well, isn't it true that for the
18 remaining term of the contract, Verizon would incur
19 lower billing and collection and customer service costs
20 than if the contract had not been assigned?

21 MS. MAHER: To me, that would be minimal.

22 MR. BRANFMAN: Well, in the calculations that
23 were set forth before the Commission, the Commission
24 determined a certain percentage of avoided costs for
25 customer service would go into collection; didn't it?

1 matter of public record what the FCC ruled on. I
2 gather it's a ruling regarding resale, and I think one
3 of the problems we're having here is that we're sort of
4 mixing up what happens when a reseller steps in the
5 shoes of the retail customer. Once the CLEC does that,
6 they're no longer a reseller, they're just stepping in
7 as a retail customer.

8 CHAIRMAN WELCH: You know, this is not an
9 argument on the merits, it's an argument on the
10 particular question. Is her answer going to make a
11 difference to what the law is, because if it's not, why
12 don't we move on.

13 MR. BRANFMAN: Thank you. No further
14 questions.

15 EXAMINER BRAGDON: Questions from the CLEC --
16 other CLECs or OPA?

17 MR. BLACK: No questions.

18 MR. DONAHUE: No questions. Thank you.

19 EXAMINER BRAGDON: Any follow-up from Verizon?

20 MR. SMITH: Yes, I just have a couple, three
21 questions. Ms. Maher, can you please tell me if

22 Verizon-Maine has the same policy regarding CSAs in
23 Maine as it does in Massachusetts?

24 MS. MAHER: Yes, it does.

25 MR. SMITH: In your opinion we are following the

1 MS. MAHER: Yes, it did.

2 MR. BRANFMAN: And that wouldn't be any
3 different for a CSA than it would be for a tariffed
4 service, would it?

5 MS. MAHER: I'd have to refer that to my cost
6 folks.

7 MR. BRANFMAN: Well, do you have any basis as
8 you sit here today to state that it would be a lower
9 level of avoided costs in the customer service, billing
10 and collection area for a CSA than it would be for
11 tariff service?

12 MS. MAHER: No.

13 MR. BRANFMAN: And the argument that you made
14 that the CLEC is looking for a discount on an already
15 discounted service, are you aware that Verizon made
16 that argument to the FCC back in 1996 in its local
17 competition order?

18 MS. MAHER: No.

19 MR. BRANFMAN: But you would agree that if the
20 FCC ruled on that argument and rejected it, then that
21 would be the -- the law of the land, so to speak,
22 today?

23 MS. MAHER: I can't comment, but I would --

24 MR. SMITH: Are you asking her for her legal
25 interpretation, her legal opinion on something? It's a

1 rules of the FCC in the Maine Commission regarding
2 CSAs?

3 MS. MAHER: Yes, we are.

4 MR. SMITH: That's all I have.

5 EXAMINER BRAGDON: Further follow-up from CTC?
6 No? Any questions from the bench?

7 MR. HARTMAN: At this point I'll just do one.
8 From the discussion on contract terms, it appears that
9 Verizon is consistent between retail services and CSAs
10 on how it handles the application of a discount. For
11 example, be it a special access, intrastate special
12 access that had a term, be it Centrex -- I don't know
13 if Centrex is a regulated service in this state.

14 EXAMINER BRAGDON: Yes.

15 MR. HARTMAN: But I'm just getting the idea that
16 it is consistent.

17 MS. MAHER: That's right. It doesn't matter
18 whether it is a contracted retail product or a CSA.
19 The policy is the same.

20 MR. HARTMAN: Okay. Thanks.

21 EXAMINER BRAGDON: Okay. Thank you very much.
22 Somebody else reserved a half an hour.

23 CHAIRMAN WELCH: They don't have to use it.

24 EXAMINER BRAGDON: Okay. We're all set.

25 MR. BRANFMAN: We have another witness here.

1 CTC is going to go to checklist 14.
 2 Mr. Donnellan, you've been previously placed
 3 under oath?
 4 MR. DONNELLAN: Yes.
 5 MR. BRANFMAN: Mr. Donnellan, I think you've
 6 already previously indicated that you were responsible
 7 for the portion of CTC's declaration dealing with
 8 checklist item No. 14 which you had no corrections?
 9 MR. DONNELLAN: That's correct.
 10 MR. BRANFMAN: The witness is available for
 11 cross-examination.
 12 MR. SMITH: Verizon has no cross.
 13 CHAIRMAN WELCH: Let me ask a question here
 14 that follows up on this last resale debate that was
 15 just taking place. When you are -- I take it you enter
 16 into the long-term contracts with customers from time
 17 to time? By long-term, I mean by more than a month, a
 18 year, two-year contracts?
 19 MR. DONNELLAN: Sometimes, yes.
 20 CHAIRMAN WELCH: And do those contracts have
 21 assignment clauses in them?
 22 MR. DONNELLAN: Yes.
 23 CHAIRMAN WELCH: And what do those clauses say
 24 typically?
 25 MR. DONNELLAN: That it requires -- the

1 there's an existing customer out there that has a
 2 CSA with Verizon, and you go to that customer and say,
 3 I would like you to assign that contract to a new CTC.
 4 what is it about that contract that's different that
 5 would suggest that you are entitled to a lower price
 6 than what the customer is getting?
 7 MR. DONNELLAN: I'm not sure I follow the
 8 question.
 9 CHAIRMAN WELCH: Well, I understand the argument
 10 that CTC is making in this case, is that you are
 11 entitled that when you get a -- a CSA assigned by a
 12 customer, that you're entitled to a discount, a
 13 wholesale discount on that contract?
 14 MR. DONNELLAN: Yes, we believe that we are.
 15 CHAIRMAN WELCH: Well, I'm trying to understand
 16 why you believe you are.
 17 MR. DONNELLAN: Oh, because what are our costs
 18 associated with servicing that customer, because CTC
 19 now has the burden of billing, collections and customer
 20 service.
 21 CHAIRMAN WELCH: But doesn't Verizon still have
 22 the burden of billing and collecting from you?
 23 MR. DONNELLAN: But that was factored in. I
 24 mean they still have that burden on tariff resell
 25 services as well.

1 assignment of the contract requires approval from
 2 either party whose approval will not be unreasonably
 3 withheld.
 4 CHAIRMAN WELCH: And I take it there have been
 5 some instances where a contract has been assigned?
 6 MR. DONNELLAN: Yes.
 7 CHAIRMAN WELCH: In those circumstances do you
 8 generally agree to take less money from the new
 9 customer?
 10 MR. DONNELLAN: No. The assignment usually --
 11 what determines whether we will assign it or not as the
 12 terms were is really the creditworthiness of the person
 13 you're assigning the contract to.
 14 CHAIRMAN WELCH: In other words, in your view
 15 when one of your contracts is assigned, as long as
 16 you're going to get exactly what you thought you were
 17 going to get under the contract?
 18 MR. DONNELLAN: Yes.
 19 CHAIRMAN WELCH: Now, does it make it make a
 20 difference whether or not the new customer for whatever
 21 reason is easier or harder to serve than the old one?
 22 MR. DONNELLAN: No.
 23 CHAIRMAN WELCH: Help me with the logic. I
 24 understand your position to be that when you get or are
 25 assigned a contract, a CSA that Verizon has from a --

1 CHAIRMAN WELCH: But I'm trying to understand
 2 what -- if a contract -- if you sign -- what if Verizon
 3 was the assignee on one of your contracts.
 4 MR. DONNELLAN: Uhm-uhm, and they are.
 5 CHAIRMAN WELCH: Do they get a discount?
 6 MR. DONNELLAN: No.
 7 CHAIRMAN WELCH: What's different?
 8 MR. DONNELLAN: Oh, no, I'm sorry. It's their
 9 services, not our services, so that's a different
 10 situation.
 11 CHAIRMAN WELCH: But why is it different? I
 12 mean if Verizon were to be the assignee of a contract
 13 you have with the customer, they go to one of your
 14 customers and say you have a CSA with CTC?
 15 MR. DONNELLAN: Right.
 16 CHAIRMAN WELCH: And they say we'll take -- we
 17 will step into the shoes of that customer. Now, why is
 18 it that they don't get a discount from you?
 19 MR. DONNELLAN: Well, it's their services
 20 anyway. We're talking about Verizon services, we're
 21 not talking about services that CTC manufactures and
 22 provides.
 23 CHAIRMAN WELCH: What if CTC had facilities and
 24 it was a facility-based contract and the contract
 25 assigned it, under those circumstances should they get

1 a discount from you?

2 MR. DONNELLAN: I guess if we had negotiated the

3 contract, we would give them a discount, sure.

4 CHAIRMAN WELCH: But is there a -- do you have a

5 negotiated contract with Verizon that gives them a

6 discount on these contracts?

7 MR. DONNELLAN: No.

8 CHAIRMAN WELCH: Thank you.

9 EXAMINER BRAGDON: Follow-up?

10 MR. BRANFMAN: I have some follow-up. Mr.

11 Donnellan, the avoided costs discount, who established

12 the notion of an avoided cost discount?

13 MR. DONNELLAN: I'm not sure if it was the FCC

14 or --

15 MR. BRANFMAN: Part of the act that was passed

16 by Congress?

17 MR. DONNELLAN: Yes.

18 MR. BRANFMAN: And is it your understanding that

19 all CLECs including ILECs and CLECs are required to

20 resell services?

21 MR. DONNELLAN: Yes.

22 MR. BRANFMAN: And that there's a provision to

23 the act that requires only that ILECs such as Verizon

24 are required to provide an avoided cost discount?

25 MR. DONNELLAN: That's correct.

1 MR. BRANFMAN: So right or wrong, Congress

2 decided that when ILECs' contracts were -- ILEC

3 services were resold, the reseller would receive an

4 avoided cost discount and that when CLECs' services

5 were resold, they were not obliged to provide an

6 avoided cost discount?

7 MR. DONNELLAN: Correct.

8 MR. BRANFMAN: I have nothing further.

9 EXAMINER BRAGDON: Anything further?

10 MR. SMITH: We have nothing.

11 EXAMINER BRAGDON: Thank you. You're excused.

12 Checklist item 4.

13 EXAMINER BRAGDON: Would you all please raise

14 your right hands.

15 (Witnesses sworn.)

16 EXAMINER BRAGDON: Would you each state your

17 name for the record.

18 MR. WHITE: My name is John White. I'm

19 executive director of wholesale technology for

20 Verizon.

21 MR. MAGUIRE: Tom Maguire.

22 MS. CLAYTON: I'm Rose Clayton.

23 MS. ABESAMIS: I'm Beth Abesamis.

24 MR. SULLIVAN: I'm Sean Sullivan, S E A N,

25 Sullivan.

1 MS. CANNY: Julie Canny.

2 MS. GILLIGAN: Nancy Gilligan.

3 MR. BOECKE: And all of you members of the panel

4 in one way or another had input into this section on

5 checklist item 4, access to unbundled loops; is that

6 correct?

7 MR. WHITE: Yes.

8 MS. ABESAMIS: Yes.

9 MR. SULLIVAN: Yes.

10 MS. CANNY: Yes.

11 MS. GILLIGAN: Yes.

12 MS. CLAYTON: Yes.

13 MR. BOECKE: Does anyone have any changes or

14 corrections that need to be made to either the October

15 18th declaration or the supplemental declaration?

16 MR. WHITE: No.

17 MR. MAGUIRE: No.

18 MR. BOECKE: The witnesses are available for

19 cross and Mr. Smith will be their attorney.

20 EXAMINER BRAGDON: Thank you. CTC?

21 MR. BRANFMAN: No questions.

22 EXAMINER BRAGDON: CLEC Coalition?

23 MR. DONAHUE: Yes. Ms. Robideau has some

24 questions and Mr. Winchester will have a few also.

25 EXAMINATION OF PANEL:

1 (Ms. Clayton, Mr. White, Mr. Maguire, Mr. Sullivan, Ms.

2 Canny, Ms. Gilligan).

3 MS. ROBIDEAU: On page 50 of the supplemental

4 checklist declarations, it's item No. 90. In there you

5 indicated that the -- in recognition of Verizon's DS-1

6 and DS-3 no-facilities policy, basically what you state

7 is that because this issue is before the FCC, that this

8 Commission here basically has no -- has not required

9 any action; is that correct? Basically in the bottom

10 it says policy that is squarely before the FCC and no

11 action is required by this Commission.

12 MR. MAGUIRE: In this particular paragraph, that

13 is the -- the specific incidence that we refer to. We

14 refer to other issues throughout the declaration, why

15 we believe that this is best addressed someplace else.

16 yes.

17 MS. ROBIDEAU: Okay. My next question then to

18 that is why do you believe that this Commission here at

19 our state PUC has -- that there's no action required by

20 them with the no-facilities issue?

21 MR. MAGUIRE: Well, actually, I think the

22 foundation of our no-facilities policy or the belief

23 concerning our no-facilities policy is rooted more in

24 some of the recent findings of the FCC, specifically

25 their approval finding in Pennsylvania where they said

1 that we were not in violation of any of their rules and
2 nor do they believe that this particular subject is a
3 matter of discussion in a 271 proceeding.

4 So there's actually a number of different
5 reasons why we believe that the Commission should not
6 be involved in this particular subject, and this just
7 happens to refer to the NPRN as a -- as a good
8 indication that the FCC is, in fact, looking into this
9 in greater detail. They've asked -- I believe in the
10 NPRN in paragraph 52, they've actually asked whether or
11 not high-capped services are actually LNE or whether or
12 not they should be considered part of the whole
13 unbundling process in general.

14 So it is a situation where a discussion in the
15 steps would be considered by the FCC at this moment.
16 Therefore, in order to make matters simple, the
17 Commission needs to be involved at this point.

18 MS. ROBIDEAU: All right. Does Verizon believe
19 that when the CLECs in Maine, particularly Revolution
20 Networks, orders predominantly mostly high-capped LNEs,
21 when there's a no facilities available issue with
22 Verizon, when they come back and give us a
23 no-facilities issue requiring us to either cancel that
24 order for our customer or order it under special access
25 and provision it that way, does Verizon believe that

1 implication to the CLECs was when being sent out?
2 MR. MAGUIRE: In general terms the letter was to
3 outline what Verizon would and would not do, what steps
4 we would follow to provide a high-capped facility in an
5 unbundled world to a CLEC.

6 MR. WINCHESTER: In your supplemental
7 declaration, page 47, items 86 and 87 basically outline
8 some of the information contained in the coalition's
9 declarations. In the first sentence of 88, the
10 statement is none of these complaints have merit or has
11 merit.

12 Can you -- can you explain why, prior to the
13 release of this industry letter, specifically in
14 Mid-Maine's case we had absolutely no orders rejected
15 for no facilities, yet post this industry letter, we
16 experienced about a 30 to 40 percent increase in the
17 number of rejected orders we got due to no facilities,
18 specifically due to DS-1s?

19 MR. MAGUIRE: There could be -- I don't know the
20 specifics related to Mid-Maine, but, again, in general
21 terms, there could be a number of reasons for why you
22 might not have received a rejection earlier on. It
23 could have been that you were ordering in a location
24 that had abundant facilities and then later on you were
25 ordering in a place that did not have abundant

1 poses an undue burden on the CLEC, to have to -- to
2 take from the Maine tariff pricing over to special
3 access under FCC-11 and pay FCC-11 tariff rates?

4 MR. MAGUIRE: Well, actually, in addition to
5 purchasing under the FCC tariff, you also have the
6 ability to go out and contract with another service
7 provider or build your own. There are a couple of
8 different avenues that you can follow. We don't
9 necessarily believe that this is an undue burden on a
10 CLEC simply because there is a competitive service you
11 can buy. You can buy from other sources.

12 MS. ROBIDEAU: Well, who would those other
13 sources be?

14 MR. MAGUIRE: Level 3 comes to mind. I don't
15 know if they're up here but --

16 MR. WINCHESTER: Are you familiar with the
17 industry letter that was sent out on July 24, 2001
18 related to facilities issues in Maine?

19 MR. MAGUIRE: Any particular person?

20 MR. WINCHESTER: You're a panel up there so jump
21 at it.

22 MR. MAGUIRE: I would say yes on behalf of the
23 panel.

24 MR. WINCHESTER: Can you explain what the
25 content of that letter was and its intent or the

1 facilities. There could have been a rogue engineer out
2 there who put in a work order to do some sort of
3 construction job without fully understanding what the
4 policy is.

5 Part of the reason for coming out with the
6 policy letter was to ensure not only that the CLECs
7 understood clearly what was going to be done and not
8 going to be done, but we also wanted to quantify it for
9 our personnel, too, so everybody was singing off the
10 same sheet of music.

11 EXAMINER BRAGDON: Prior to July of this year,
12 in Maine were Verizon engineers, I'm not a technician,
13 activating or putting in place a multiplexor when
14 needed to complete an order for an interoffice
15 facility?

16 MR. MAGUIRE: I can't answer that specifically.

17 EXAMINER BRAGDON: Can anybody on that panel
18 answer that question?

19 MS. GILLIGAN: I don't know.

20 EXAMINER BRAGDON: So there's no answer to
21 that?

22 MR. MAGUIRE: But to answer your question, I
23 think we'd have to look at specific instances to find
24 out what was and what wasn't done. I don't know if
25 that can be answered in generic terms.

1 EXAMINER BRAGDON: Are you aware of any policy
 2 for Verizon-Maine prior to July of this year that was
 3 different than the current policy?
 4 MR. MAGUIRE: No, I'm not.
 5 MR. WINCHESTER: In your opinion would you say
 6 that this letter constituted a change in Verizon's
 7 policies of how they dealt with provisioning DS-1 local
 8 loop facilities to CLECs?
 9 MR. MAGUIRE: From my perspective, I don't
 10 believe there was a change. I deal with all sorts of
 11 loops, and it was common practice where we did not have
 12 facilities, for example, a hot cut involving IDLC, if
 13 we did not have alternate facilities, we explain that
 14 to the CLEC and typically they would cancel the order.
 15 So this was not something new to me at the time.
 16 MR. WINCHESTER: In your opinion does it seem
 17 odd that prior to the letter, that no facilities -- no
 18 orders for T1 facilities local loop were rejected, yet
 19 post this letter, there seemed to be a significant
 20 increase correlated to that?
 21 MR. MAGUIRE: In my opinion is it odd, not
 22 necessarily because of some of the things I mentioned
 23 earlier.
 24 MR. WINCHESTER: What options do CLECs have when
 25 they have an order rejected for no facilities at a DS-1

1 to cancel the order.
 2 MR. WINCHESTER: Why does Verizon ask the CLEC
 3 to cancel the order?
 4 MR. MAGUIRE: It's a CLEC order. It's just the
 5 way you do business.
 6 MR. SULLIVAN: That's correct. We can't do
 7 anything further with the order, and so we tell the
 8 CLEC -- to reject it for a no-facilities situation, we
 9 ask them to cancel the order.
 10 EXAMINER BRAGDON: Well, let's stop right
 11 there. First of all, why don't you put this in
 12 writing?
 13 MR. MAGUIRE: We just don't have a means of
 14 communicating back on something -- there isn't an order
 15 per se, so we don't have -- are you talking about like
 16 an electronic response?
 17 MR. MAGUIRE: Yes. I think they're working
 18 towards that. Again, maybe that's something we can
 19 talk about later, but I think they were trying to
 20 develop a means of communicating electronically.
 21 Again, I'm not an engineer so I'm not even sure exactly
 22 what's going on from talking from the request net
 23 system back into our system in order to generate a
 24 message back, but I do believe they are trying to come
 25 up with something.

1 level to still place or install service to a customer's
 2 premise where a LNE facility has been denied due to a
 3 facility's rejection?
 4 MR. MAGUIRE: On a T-1 level?
 5 MR. WINCHESTER: Yeah.
 6 MR. MAGUIRE: They could purchase under the
 7 special access tariff, or as I mentioned earlier, they
 8 could go and if there are alternate service providers,
 9 I don't know who they are but there are some, or they
 10 could undertake their own construction, have somebody
 11 bring in fiber.
 12 I've encountered situations where there are a
 13 number of CLECs that have facilities that run their own
 14 fiber, run their own copper.
 15 MR. WINCHESTER: When an order is rejected, a
 16 DS-1 order or an order is rejected due to no
 17 facilities, what is Verizon's practice with
 18 communicating with the CLEC about that particular
 19 rejection and what do they request the CLEC do with
 20 that order?
 21 MR. MAGUIRE: It's my understanding that the
 22 center will call up to the person who initiated the
 23 order on the CLEC side, let them know what's missing,
 24 if there's a piece of the network or what the reason
 25 was for the rejection, and then typically ask the CLEC

1 EXAMINER BRAGDON: Do you provide rejection
 2 notices for other types of LNEs that are ordered?
 3 MR. MAGUIRE: Not to my knowledge. I don't
 4 think so. We're talking specifically if there are no
 5 facilities?
 6 EXAMINER BRAGDON: No. Any other reason that an
 7 order would be rejected. I am including electronic.
 8 MR. MAGUIRE: By written, I'm assuming
 9 electronic.
 10 MR. SULLIVAN: If I can jump in for a minute, if
 11 we get an order from a CLEC, the order has not been
 12 written, it has not been confirmed back, it could be
 13 rejected by the system, and they would get an automated
 14 reject notice saying this order has been rejected for
 15 various reasons, and it would indicate what the reasons
 16 are, missing information and so forth. And so if an
 17 order is rejected, we wouldn't necessarily ask the CLEC
 18 to cancel it because effectively it never was created:
 19 it was never placed.
 20 Once the order has been confirmed back to the
 21 CLEC and we have a no-facilities situation, for
 22 example, that, again, we'd go back to the CLEC, written
 23 notice saying, okay, we cannot fulfill this order. The
 24 ball is back in your court. If there is no further
 25 action needed, we would ask for a cancellation.

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1 MR. MAGLIRE: Actually, I think you're used to
2 dealing in terms of a local service request, an LSR.
3 You will hear terms like LSRC, FOC, things like that,
4 and in this instance we're talking about an access
5 service request, an ASR. It's a different system; it's
6 a different sort of mechanism in order to get the
7 notice across. So we don't have some of those
8 rejection capabilities as Sean just described.

9 MR. WINCHESTER: Are there metrics -- sorry.

10 MR. MAGLIRE: Okay.

11 EXAMINER BRAGDON: Go ahead.

12 MS. MAGLIRE: Is that it?

13 MR. WINCHESTER: Are there metrics that measure
14 orders held for no facilities greater than 30 days and
15 greater than 60 days?

16 MS. CANNY: Yes. If it's been a confirmed
17 order, that is, we gave you back a due date and we're
18 not able to complete it, there are metrics for that.

19 MR. WINCHESTER: And so explain to me how you
20 would have a confirmed order where there are no
21 facilities versus having a rejected order upfront for
22 no facilities?

23 MS. CANNY: A confirmed order essentially means
24 that we thought we had or were able to produce
25 facilities but subsequently find that we don't. For

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1 example, there might be facilities there and they turn
2 out to be defective or actually in use for another
3 customer, and that happens downstream.

4 MR. WINCHESTER: So you're saying the difference
5 being that you would not ask the CLEC to cancel the
6 order if they got a reply that said facilities are
7 available and were given a FOC date?

8 MR. MAGLIRE: Well, we're mixing apples and
9 oranges to a certain extent here because the situation
10 that Julie described and I believe the metric that
11 you're talking about deals more with less complex
12 loops, not high capacity loops. So what we're
13 typically talking about is copper; isn't that true?

14 MS. CANNY: We do have a facility for all
15 services.

16 MR. MAGLIRE: But in the situation you talked
17 about, let's say, for example, we were going to put in
18 a complex loop or a DSL loop, how we try to do a line
19 station transfer to get it to a copper loop, and there
20 wasn't -- we couldn't get the line station transfer
21 accomplished by the due date, that would technically
22 become a held order.

23 MR. WINCHESTER: Let me ask you a question. If
24 all services fall under that, whether they're complex
25 or not, and a CLEC provisioned an order for dark fiber

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1 and dark fiber was -- the request came back as a
2 confirmed facilities availability and given a FOC date
3 or a due date and that order was then subsequently
4 found to have no facilities, how would that reject
5 information get back to the CLEC? Is that one of those
6 orders that should be held and left in the Q or should
7 it asked to be canceled?

8 MR. MAGUIRE: I think again it depends on the
9 individual situation. If we find that there are -- if
10 there's something that we can do within reason in order
11 to get the facilities up and running, we might not have
12 rejected the order. We'll dismiss the due date and it
13 will become a held order.

14 If we go out there and found out that there was
15 nothing except, you know, we have to go out and rip up
16 streets, run new cable, things like that, the order
17 might get rejected. So, again, it might be something
18 that's more individual.

19 EXAMINER BRAGDON: Does Verizon have any way to
20 track the number of orders that are rejected for no
21 facilities available?

22 MS. GILLIGAN: Not in accounting, no.

23 MR. MAGUIRE: I don't know.

24 MS. ABESAMIS: Not currently, no.

25 MR. WINCHESTER: Is that because there -- the

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1 CLECs are told to cancel those orders versus leaving
2 them in the system as pending activity?

3 MS. ABESAMIS: If they're rejected, they don't
4 get in.

5 MR. WINCHESTER: There's a record created,
6 right?

7 MS. ABESAMIS: We count the number of orders
8 rejected. We do not type out by type of rejection.

9 MR. WINCHESTER: You don't today?

10 MS. ABESAMIS: Nor do we have the capability.

11 MR. WINCHESTER: So the answer to the question
12 then is you can't count them?

13 MS. ABESAMIS: That's correct.

14 MR. MAGUIRE: The facility rejections,

15 CHAIRMAN WELCH: What do you mean you can't
16 count them? That means you haven't programmed your
17 computers to do it.

18 MS. CLAYTON: The information would actually
19 have to be in the field that's captured by our metrics
20 in order to find that it was a facility missed and our
21 rejects, we basically know what type of order it is,
22 how big it is and that it was rejected. We don't know
23 why. And particularly on the ASR process, there's not
24 really a field on even the ASR that gets into that
25 level of detail.

1 CHAIRMAN WELCH: But I mean these things are
2 not -- I mean they don't come down from God, right? I
3 mean presumably somebody designs the fields. How much
4 work would it be to create a field that said this was
5 the reason?

6 MS. CANNY: They're generally done by the order
7 billing form which is a national standard, and that has
8 to be worked out nationally because systems have to
9 talk to systems and you can't have a different system
10 in a different field in Maine than you do -- it's
11 really nationally established, so it's not to say it
12 can't be done, but it would have to go through the
13 standards body and it could be substantial.

14 CHAIRMAN WELCH: Would there be a way of
15 avoiding the standards body by just having a protocol
16 within Verizon that said when we get a particular kind
17 of rejection, we're going to do a, you know, manual
18 stroke count somewhere and say that, you know --

19 MR. MAGUIRE: I suppose we could do that, but --

20 CHAIRMAN WELCH: What's the volume we're talking
21 about here in terms of orders that are rejected upfront
22 for no facilities?

23 MR. WINCHESTER: If we say that --

24 CHAIRMAN WELCH: Let me ask the witness this
25 first. I mean do you have any idea? Are we talking

1 question. Forgive me if that has been answered
2 somewhere in the various bits of testimony and other
3 things. When you tell a CLEC that no facilities are
4 available, do I assume correctly that that may or may
5 not mean literally that there are no facilities on
6 which no -- from which no customers are being served,
7 but there may be some spares that you're reserving for
8 your own growth?

9 MR. MAGUIRE: Definitely not. That's not the
10 case. We say -- we don't reserves things. I know that
11 in parts of the -- specifically paragraph 87, just to
12 quote the last sentence, both CLECs assert that this
13 new policy is apparently symptomatic of a larger policy
14 to relegate UNES to separate and inferior networks,
15 that would lead me to believe that they believe that we
16 segregated or set aside a certain number of facilities
17 for CLEC use and that we potentially save other stuff
18 for our use. That is not the case.

19 CHAIRMAN WELCH: Well, I was actually asking
20 you -- you may have answered the question, but the last
21 thing you said, and it may be not true if you answered
22 it, let's say that you have a facility that has -- it's
23 filled to like 80 percent and ordinarily you add a new
24 facility when you hit 82 percent. The numbers may be
25 just made up.

1 dozens, thousands?

2 MR. MAGUIRE: I would imagine it's not
3 thousands. It's somewhere -- it's around the dozens
4 maybe.

5 EXAMINER BRAGDON: How many people within
6 Verizon would be in a position to make the
7 determination that no facilities are available and call
8 a CLEC and ask them to cancel? How many people would
9 need to be tracking? Are we talking everybody at the
10 national market center?

11 MR. MAGUIRE: Oh, no, no, no, no, because these
12 orders don't go into the national market center. They
13 go into what is typically known as a CATC, CATC,
14 carrier account team center. Where the orders come in,
15 they're handed off to the folks at engineering. The
16 folks at engineering make a determination whether or
17 not they believe that there are facilities, and then
18 they send the information back over to the CATC who
19 then, in turn, notifies the CLEC.

20 CHAIRMAN WELCH: So the CATC people would
21 actually be -- I mean if you got the CATC people to
22 track those, you wouldn't have -- you would capture the
23 universe?

24 MR. MAGUIRE: Yes.

25 CHAIRMAN WELCH: Let me ask a more general

1 If a -- if you get a request for service from a
2 Verizon retail group and it will take it 83 percent
3 fill, I take it you fill that order, right, I mean if
4 it's from the retail side of your operation?

5 MR. MAGUIRE: If it's from the retail or CLEC
6 side, it is.

7 CHAIRMAN WELCH: I just want to be sure. Just
8 answer the retail first because -- presumably because,
9 you know, you have some obligation to serve everybody
10 on the retail side who asked for it. So you go out and
11 you -- and you put in that order and you get up to 83
12 and you have to go build your new facility because
13 you've exceeded the engineering rate for that.

14 Am I sort of right so far on what would happen
15 on the retail side?

16 MR. MAGUIRE: But even if we --

17 CHAIRMAN WELCH: Stick with my questions. It
18 will go faster, trust me.

19 MR. MAGUIRE: Okay. I just want to try to get
20 it to make sure I'm answering the question. I think
21 what you're saying is if we get -- I'll just -- since
22 I'm not an engineer, I'll use your numbers because
23 they're pretty good. If we get to 80 and it kicks us
24 this -- this order kicks us to 83.

25 CHAIRMAN WELCH: Right.

1 MR. MAGUIRE: That would automatically trigger
 2 like an engineer's -- the little light would go over
 3 his desk and he would have to go out and figure out if
 4 there's something to do to relieve the congestion
 5 there.
 6 CHAIRMAN WELCH: Right.
 7 MR. MAGUIRE: We would provision that order.
 8 CHAIRMAN WELCH: Right.
 9 MR. MAGUIRE: The order that kicked in the
 10 threshold, but we would also provision anything else up
 11 to the point in time where the facilities were
 12 completely exhausted.
 13 CHAIRMAN WELCH: So on the retail side, you
 14 would do that. Now, are you telling me that on
 15 the -- if a CLEC made the same request, made a request
 16 for the same facility, it would kick it up to 83, you
 17 would pro -- would they or would they not get a
 18 no-facilities message on that?
 19 MR. MAGUIRE: They would not. We would go to a
 20 hundred percent.
 21 CHAIRMAN WELCH: Okay.
 22 MR. MAGUIRE: We just try to use whatever is out
 23 there. I mean typically it might not be, and, again,
 24 this might be anecdotal, but it might not be the actual
 25 cable that's out in the field, it might be some of the

1 other equipment that's needed in order to kick it up to
 2 a T-1 level, for example, a repeater in an apparatus
 3 case; and I don't -- I don't know if we could talk
 4 about this during the checklist item No. 5, but Don
 5 Albert might know a little bit more about what's going
 6 on with some of the engineering aspects of this.
 7 CHAIRMAN WELCH: Let me ask a question, and,
 8 again, this might be better for them, but since I'm not
 9 going to be here this afternoon, I'll ask you and take
 10 my chances.
 11 MR. MAGUIRE: Okay.
 12 CHAIRMAN WELCH: Let's see you have -- you have
 13 five fibers in a sheath, two of which are -- have the
 14 electronics on the end, three of which don't. If a
 15 retail request comes in for a service that's going to
 16 require energizing the third one, presumably you do
 17 that?
 18 MR. MAGUIRE: Yes.
 19 CHAIRMAN WELCH: If a CLEC request comes in and
 20 says I need a service in this route that requires this
 21 kind of facility, what do you do?
 22 MR. MAGUIRE: If we have to put in a new MUX, is
 23 it -- see, again, it's an individual situation. If we
 24 have to put in a new MUX or put in a new shelf to be
 25 able to add electronics, we would not do that.

1 However, if it came down to -- if the electronics were
 2 hanging off that piece of fiber and it involved either
 3 running a cross connect or putting in some sort of
 4 card, we would, in fact, do that.
 5 CHAIRMAN WELCH: So the line is somewhere
 6 between putting in a card in the cross-connect which
 7 you would do and installing some piece of larger
 8 equipment?
 9 MR. MAGUIRE: Yes.
 10 CHAIRMAN WELCH: If the Commission is going to
 11 have some enforcement authority to figure out when
 12 you're doing what you ought to be doing and when you're
 13 maybe not doing what you ought to be doing, how would
 14 we -- how should we articulate that line?
 15 MR. MAGUIRE: That's a good question.
 16 CHAIRMAN WELCH: That's why I asked it.
 17 MR. WHITE: I'm still back on the same example.
 18 If the CLEC -- the CLEC could order a dark fiber in
 19 that situation and they can put their on electronics
 20 on, so we would say that we don't need to construct,
 21 add electronics to provide --
 22 CHAIRMAN WELCH: Well, I understand that. I'm
 23 not -- I'm not disputing at this point the reasons why
 24 you might do some things and other things. I'm just
 25 trying to figure out since you said we do some things

1 and we don't do other things, I'm trying to figure out
 2 what fits in what box without having an equipment list
 3 on my desk. Go ahead.
 4 MS. GILLIGAN: The difference would be what I
 5 would call major versus minor work. Minor work would
 6 be we have cards in stock. We could pop them into the
 7 multiplexor. We can run the cross wire. If you got
 8 into a situation where you were working on new shelves
 9 on a new multiplexor and a new apparatus cage, you
 10 would be doing an engineering job in order to construct
 11 those facilities.
 12 MR. MAGUIRE: But I guess your question is how
 13 do you differentiate between us saying it's that versus
 14 us saying --
 15 CHAIRMAN WELCH: Right. I mean major, minor,
 16 with all due respect, is not a real clear standard to
 17 administer.
 18 MR. MAGUIRE: No. In a minor situation, we'll
 19 provision it, putting in a card versus --
 20 CHAIRMAN WELCH: No, no, no, I understand your
 21 point, but my point is I don't know which is which;
 22 and, frankly, you've probably given me as good an
 23 answer as I can hope to get today, but I do think it is
 24 -- you know, I invite creative thinking along these
 25 lines because if Verizon prevails on the notion that it

1 doesn't have to do construction. and there's certainly
 2 some law that suggests that may be the case, I don't
 3 know what that means. And I think there's -- at least
 4 going forward, we're going to have to figure out what
 5 that means.
 6 MR. SMITH: If I could just interject, I believe
 7 that some of these same issues have been raised in the
 8 FCC's notice of proposed rule-making, and maybe they're
 9 going to be hashed out there.
 10 CHAIRMAN WELCH: I actually am a member of the
 11 joint board that has a docket number that begins with
 12 80, so waiting for the FCC to do things is not
 13 always -- but anyway.
 14 COMMISSIONER DIAMOND: Let me just ask how does
 15 your own staff know what's major or minor or is there a
 16 fair amount of discretion whoever is handling the
 17 order?
 18 MR. MAGUIRE: Well, the engineers know that
 19 there's a spare slot on a shelf in the central office,
 20 or I think in the letter -- because the letter is
 21 pretty -- is pretty straightforward in terms of what we
 22 will and will not do, but if they look and they see
 23 that there's a spare shelf or a spare slot in the shelf
 24 or if they see that there's a MUX in the field and is
 25 the necessary -- whatever -- whatever is required in

1 organizations, you mean internal?
 2 MS. GILLIGAN: Communicated out to the engineers
 3 in oral submissions.
 4 COMMISSIONER DIAMOND: I see.
 5 EXAMINER BRAGDON: I'd like to make a record
 6 request for a copy of whatever that is.
 7 MR. MAGUIRE: I believe that, and I've only
 8 given it a very quick glance because, again, I'm not an
 9 engineer, I'll say that a few times, but I believe that
 10 it actually provides some sort of matrix that says if
 11 this, then that or it gets into --
 12 MR. ALBERT: It's more detailed than the
 13 letter. The practice of the Loop Engineer's Act, it
 14 gets into another level of granularly, more detailed
 15 than the two-page letter.
 16 CHAIRMAN WELCH: Is that set of protocols
 17 something that has been shared with the CLECs in terms
 18 of what is done and what isn't done?
 19 MR. MAGUIRE: In the letter, yes.
 20 CHAIRMAN WELCH: But not the more detailed
 21 version that would give them -- okay.
 22 MR. MAGUIRE: No.
 23 CHAIRMAN WELCH: Is there any reason you can
 24 think of why it shouldn't be?
 25 MR. MAGUIRE: I'd defer to my engineering

1 order to turn that thing up to a T-1 level or a T-3
 2 level, whatever they want, then they'll go and put it
 3 in there.
 4 If they see something is missing, for example,
 5 there's no room in an apparatus case which is going to
 6 mean somebody is going to have to go out there, open up
 7 the sheath, install an apparatus case, you know, it
 8 involves a lot of construction work --
 9 COMMISSIONER DIAMOND: But I understand -- let
 10 me interrupt you for a second because I think I
 11 understand what you're saying, but is this set forth in
 12 some policy manual somewhere that the engineers have
 13 that describes it for them?
 14 MR. MAGUIRE: Yes.
 15 MR. SULLIVAN: Yes, it is.
 16 COMMISSIONER DIAMOND: And how does it describe
 17 it for them? Is it described for them by item by item
 18 or is it described for them in more generic terms such
 19 as major and minor and then they interpret that on a
 20 case-by-case basis?
 21 MS. GILLIGAN: I know that there was a
 22 presentation that was done to those organizations, and
 23 there were specific examples of types of work that
 24 they -- that order wouldn't qualify.
 25 COMMISSIONER DIAMOND: So when you say those

1 brother, wherever you may be.
 2 CHAIRMAN WELCH: Okay. Thank you.
 3 EXAMINER BRAGDON: Why don't you keep going.
 4 Nick.
 5 MR. WINCHESTER: To kind of build off of what
 6 you indicated before, you talked about major and minor
 7 work. Can you kind of describe a major type of work
 8 project that would be required to reject a facility
 9 because major work is needed to be done before a
 10 facility is available?
 11 MR. MAGUIRE: If there's no MUX. The
 12 Commissioner just described what was a very good
 13 example. You could have a piece of dark fiber going
 14 from one place to another place. There's no
 15 electronics and we just have to go and put those MUX
 16 in.
 17 MR. WINCHESTER: And the time frame for
 18 something to have electronics like that put in, weeks,
 19 months, years? A major project being big, I'm
 20 assuming? I mean give me an average time frame for
 21 something like that.
 22 MR. MAGUIRE: I couldn't. I mean I could tell
 23 you --
 24 MR. WHITE: It varies by the site. If you have
 25 space in a building or a location, you have to have

1 power; you have to have a power supply.
 2 MR. MAGUIRE: You have to have the
 3 right-of-ways. I mean I've seen in situations, going
 4 back over --
 5 MR. WINCHESTER: Several weeks, a month or so or
 6 something like that for a major kind of project?
 7 MR. MAGUIRE: Potentially.
 8 EXAMINER BRAGDON: What typically is the
 9 situation?
 10 MR. MAGUIRE: I don't -- I mean I can't answer
 11 that. I mean it depends. If it's a -- if it's a
 12 CO job where they have to wire up a shelf, it could
 13 take a couple of weeks to do that. If it's something
 14 where they have to go out and -- I mean I've seen
 15 situations where they have to put a MUX in an office
 16 building where they have to go out and negotiate
 17 right-of-way with the landlord and make sure there's
 18 power in there. You know, it could take a couple of
 19 months. So there are instances where it could be
 20 accomplished rather quickly. There are others that
 21 could be quite involved.
 22 MR. WINCHESTER: Can you explain if a CLEC were
 23 to experience a rejected order due to no facilities,
 24 turn to the FCC-11 tariff and order a special access
 25 service, how repeatedly those services could be

1 subsequent UNE order right behind the special access
 2 order would still be canceled due to no facilities?
 3 MR. MAGUIRE: I don't -- it could be. I don't
 4 know.
 5 MR. WINCHESTER: If a CLEC had experienced that,
 6 what kind of situations or examples might you describe
 7 where that would be the case, where if a special access
 8 circuit was done and major work needed to be done to
 9 create the facilities to provision a T-1 and then right
 10 behind that several weeks later you order a UNE that
 11 same particular location but your order is rejected
 12 again due to no facilities?
 13 MR. MAGUIRE: I mean you could run into a
 14 situation where they could go out and do some sort of
 15 construction relief to satisfy one order, have other
 16 orders go in and fill that up, and then you're back to
 17 square 1 again. I mean we're talking about a change in
 18 plan. I mean I've seen instances where people have
 19 ordered UNE high-capped loops and rejected for no
 20 facilities. They hold onto it for a few weeks; they
 21 order it again and it goes right through. So I mean
 22 there's always the state of the outside plant and the
 23 and the electronics associated with the outside plant.
 24 MR. WINCHESTER: A lot of times those rejections
 25 come back in a verbal, whatever it says, no

1 installed within a five- to seven-day window?
 2 MR. MAGUIRE: I've actually -- I've seen both
 3 sides of that coin. I've seen folks ask me the
 4 question, how could it be turned around so quickly, and
 5 I've looked into instances where it turned out to be
 6 maybe there wasn't a shelf in the central office that
 7 was up wired up, but I've also encountered situations
 8 where CLECS will say, and there's one instance in
 9 particular that I'm thinking about, where a CLEC will
 10 say, fine, I'll order it special access, but you have
 11 to help me get it faster because it takes months to do
 12 it.
 13 So it's actually a double-edged sword. You
 14 could run into situations. Again, I think it depends
 15 entirely on where you're ordering the circuit from and
 16 to, but you could run into situations where you can
 17 have a bunch of them that are rejected for a particular
 18 reason, and they could go in and wire up one shelf in a
 19 CO and it can take care of a couple of different
 20 issues, or if you have a bunch of different circuits
 21 going to different locations, it could take quite a
 22 long time.
 23 MR. WINCHESTER: And borrowing the logic where
 24 you might do an a construction job to be able to
 25 facilitate an order for a special access circuit, why a

1 construction planned ever or no construction --
 2 MR. MAGUIRE: If there's individual situations
 3 -- I mean if there's individual situations, you could
 4 always look at that and find out what's going on.
 5 MR. WINCHESTER: I'm just trying to address a
 6 bigger issue of whether or not when there's a
 7 no-facilities issue is given, what it truly means to
 8 have no facilities there, whether it is simply just a
 9 card that needs to be popped in and does that
 10 constitute a no facilities or can that card be placed
 11 and seated and then the order can be facilitated?
 12 MR. MAGUIRE: It's my understanding that if they
 13 know that they have a spot to put that card in and they
 14 can run a cross-connection, they will do that for you,
 15 and if they reject, they should be telling you what's
 16 missing.
 17 MS. GILLIGAN: I would like to make a point. If
 18 there is a construction job planned, we will tell you
 19 that and we will give you a due date accordingly.
 20 EXAMINER BRAGDON: Who is we?
 21 MR. MAGUIRE: The CATC slash engineer.
 22 MR. WINCHESTER: Say the CLEC goes through the
 23 process of ordering a special access circuit. Can you
 24 describe the process for converting a special access
 25 circuit to a UNE?

1 MR. MAGUIRE: I know somebody that can, but I'll
2 give it to you generically. You can contact a certain
3 organization, and I believe they go in and it's
4 more -- they don't disconnect and reconnect. It's not
5 a migration of the facility per se. It's actually more
6 a records or billing change.

7 MR. WINCHESTER: Is that new in terms of the
8 procedure or process for that?

9 MR. MAGUIRE: What's new?

10 MR. WINCHESTER: Well, over the last six to 12
11 months.

12 MR. MAGUIRE: Oh, I don't believe so.

13 MR. WINCHESTER: So if a CLEC had tried to
14 provision an order for -- provisioned an order for a
15 special and then placed an order to convert that and
16 was told that the circuit would be disconnected and
17 then reconnected and that there was a chance that
18 potentially that facility could be reassigned in the
19 period of a disconnect order going in and a reconnect
20 order going in --

21 MR. MAGUIRE: It sounds like -- it sound like we
22 might be talking about two different things.

23 MR. WINCHESTER: Okay.

24 MR. MAGUIRE: It sounds like you might be
25 talking about actually trying to do a hot cut or a

1 CLECs?

2 MR. MAGUIRE: I think it's more -- I think it's
3 plant specific as opposed to customer specific, so I
4 think as we talked about the threshold being 83
5 percent, I think they look at it in terms like that.
6 So, for example, and this is just a congestion issue.

7 MR. WHITE: Yeah. We don't want to mix up.

8 There is planning that's done to look into the growth
9 on copper plant, on fiber plant, to reject when relief
10 would be required, and so -- but -- but that's not done
11 for a specific site. They would be looking at all the
12 routes and seeing -- and if the demand is going up
13 tremendously, then they try to provide that lead time.

14 That's why there are, you know, milestones where
15 they would look at the plant at 85 percent or 90
16 percent to see if they're -- you know, should they be
17 putting a job in the works so that when they get to
18 that 100 percent, there will be relief.

19 But those are different -- what I'm generically
20 talking about is copper relief, fiber relief, those
21 kind of things, when you do DS-1s, DS-3s, a lot of that
22 is demand. You know, because you had demand before
23 doesn't mean you're going to have demand in the
24 future. We have locations where the demand is going
25 down.

1 disconnect/reconnect, whereas this other process is
2 pretty much it's straightforward. I think what you do
3 is you just contact the organization and they take care
4 of it for you.

5 MR. WINCHESTER: And who would that organization
6 be?

7 MR. MAGUIRE: Susan Fox.

8 MR. WINCHESTER: And they've been in existence
9 in the CLEC world for --

10 MR. SMITH: I don't know. Ms. Fox will be
11 available this afternoon.

12 MR. WINCHESTER: Okay. So specifically again,
13 converting a special access to an unbundled network
14 element at a DS-1 level, there is no reconnecting or
15 disconnecting/reconnecting?

16 MR. MAGUIRE: No. We don't get -- there is no
17 disconnect/reconnect.

18 MR. WINCHESTER: I think that's it for that
19 particular subject. Do you have anything else?

20 MS. ROBIDEAU: Yes, I do have a couple of other
21 questions. Does Verizon have a mechanism in place that
22 they use to determine future facility needs do they --

23 MR. MAGUIRE: I believe they do but I --
24 perhaps --

25 MS. ROBIDEAU: For themselves as well as for

1 MR. MAGUIRE: I've always considered it to be
2 somewhat of an art because I think the engineer that
3 sits there and looks at all the different variabilities
4 that are involved has to make sure that they spend the
5 best bank for the buck because you don't want to run a
6 bunch a stuff into an area where it might not ever be
7 used because then essentially you just wasted capital
8 dollars.

9 MS. ROBIDEAU: Are you familiar with forecasting
10 reports that we're required to do as CLECs? I think
11 they're several pages long.

12 MR. MAGUIRE: Yes.

13 MS. ROBIDEAU: Quite detailed, if you will, in
14 terms of facilities that we forecast as CLECs. I think
15 this last time that we were asked, we were asked to do
16 a forecast into the year 2004 in terms of the type of
17 services that we would be ordering from Verizon. i.e.,
18 UNES, IOFs, dark fiber, all the way down the line, what
19 types of services DS-1, 3, OC-3s.

20 Are you familiar with those, do you use those at
21 all?

22 MR. MAGUIRE: I don't. I mean, again, let me,
23 before I pass this over to John, I do believe that they
24 use these in their process, but as I mentioned like the
25 art, I think -- I've actually heard CLECs say in some

1 hearings that they'll order stuff all over the place
2 because they'll never know when they need it. So,
3 again, to me it's I think you get into -- you have to
4 be able to read all the different variables in order to
5 figure out where to put the most.

6 MR. WHITE: Yeah. The forecasts are looked at
7 in multiple layers, and the ones that I was very
8 involved in was line sharing because I was involved in
9 the line sharing roll-out, so I would look at the line
10 sharing forecast. The degree of variability, the CLEC
11 that actually has done most of the line sharing across
12 the footprint actually had the lowest forecast and vice
13 versa. So you have to really look at the total
14 customer impact.

15 But we use it for many projections, you know
16 what is the expected number of -- the load that's going
17 to come into the centers for activity, what kind of the
18 volumes for enhancements that we can help the
19 flow-through on an individual product; we see that's
20 going to be a big product.

21 So it's used in many ways, but the accuracy of
22 it is I would truly agree with Tom is an art because
23 it's like getting three weather forecasts and it's like
24 everybody is looking at a different thing.

25 You hope to use the meld of all the information

1 practice of Verizon to -- to add capacity to its
2 network if the engineer sees that, you know, there's
3 consistent growth along a certain route?

4 MR. WHITE: Yes, yes, but, again, that's
5 overlaid based on the demand in an area. You know, you
6 can -- it's like a stock, you know. Because it went up
7 20 percent last year, does that mean it's going to
8 continue 20 percent or is the demand going to fall off,
9 and then when you look at the geographic economic
10 backdrop behind that that it's going to impact, you
11 know, yes, we think we can run the plant at 90 percent
12 in one area but 80 percent may be too small in another
13 area because we'll run out.

14 EXAMINER BRAGDON: Sure. I understand there's a
15 whole host of considerations, but I'm trying to get at
16 the point that Verizon makes several statements to the
17 point that they do not build CLEC networks for them,
18 that it's not Verizon's job to build a CLEC network,
19 but what I'm hearing you say is that your engineer
20 doesn't know whose demand he or she is seeing.

21 MR. WHITE: But we're talking about the -- we're
22 talking about the building of the network in a custom
23 work order. There are actually two different things.
24 To say we have to add capacity to the network, do we
25 have to put more copper into the neighborhood back here

1 you get to come up with some aggregate forecast, but
2 it's -- it's not a precise science.

3 EXAMINER BRAGDON: Let me just ask a very
4 general question. Do you use any information from CLEC
5 forecasts? Does that impact Verizon's decisions to
6 augment its network in any way?

7 MR. WHITE: Not to my knowledge.

8 MR. MAGUIRE: I don't -- I'm not sure because as
9 I've said four times already I'm not an engineer, but
10 that might -- I do believe it is used as an input.

11 MR. WHITE: Yeah, they're looking at the total
12 aggregate demand in an area and then -- so knowing that
13 there's a CLEC impact, you know, that would be
14 aggregated together; and what you have is one market
15 may grow and one may shrink, and they're trying to
16 forecast based on the total demand.

17 So an engineer may be tracking on a particular
18 cable and looking at the growth, and he's seeing this
19 cable go from 60 percent fill, 70 percent, 80 percent
20 fill. He's watching that growth, seeing the activity
21 out there. He doesn't know whether that's resale or
22 CLEC growth or wholesale growth. He's looking at
23 aggregate demand when he does forecasts for relief and
24 projections s.

25 EXAMINER BRAGDON: And is it the general

1 or do we have to go and specifically build something,
2 and once it's built back in that neighborhood, anybody
3 can use it, or do we have to go and do something
4 specific for this specific customer. It's an
5 individual work request due to an overall outside plant
6 improvement program. There's a subtle difference
7 there.

8 MR. WINCHESTER: So are you saying that in
9 general that on the aggregate level, you do take the
10 CLEC forecast to build your, quote, unquote, network of
11 the future on a forward-looking basis, yet you don't
12 build on the individual basis of an order that
13 specifically requests service from point A to point B?

14 MR. MAGUIRE: Again, No. 5, I'm not an engineer
15 so I don't know exactly what they do, but I believe
16 that they take all the variables into account when they
17 figure out how to -- what they -- what they're going to
18 do with their capital program moving forward, but we do
19 not do individual work requests.

20 MR. WINCHESTER: Would you also say or would you
21 agree that a CLEC forecasting tool may not obviously be
22 on a local level a good tool for trying to build out
23 facilities, quote, unquote, copper, because you have no
24 idea where those facilities may go, but certainly at a
25 local level since the reports are broken down by CO by

1 CO. that a CLEC tells you they're going to have a
 2 hundred, you know, DS-1s in a particular office, that
 3 you should be able to size your equipment inventory
 4 based on that particular demand at that particular
 5 forecast that says, as a general need, there will be X
 6 number of DS-1s provisioned in this particular
 7 scenario.
 8 MR. MAGUIRE: But here's the thing. Your
 9 forecast said you're going to have 100 DS-1s in this
 10 CO. Her forecast says she's going to have 100 DS-1s in
 11 that CO. Everybody else's forecast -- everybody has
 12 their forecast. That's why I think, as John described,
 13 you have to take these things in total to figure out --
 14 MR. WHITE: You can put the population in Europe
 15 in some of the wire centers.
 16 MR. WINCHESTER: But would you agree that the
 17 tool -- that the forecasting sheet is a good tool for
 18 at least specing out or speculating how much equipment
 19 might actually be needed in a given CO to handle a
 20 plant?
 21 MR. MAGUIRE: I mean equipment is capital
 22 dollars, true. I think the answer to your question is
 23 yes, I mean it does provide information that's taken
 24 into account by the engineering folks. I don't know
 25 exactly how they go through all these processes, but I

1 experiencing a no-facilities issue?
 2 MR. MAGUIRE: No.
 3 MR. WINCHESTER: No?
 4 MR. MAGUIRE: No. What John is saying that, and
 5 I'm not to put words in John's mouth, let's say we
 6 received a forecast from you guys that wanted to go to
 7 a particular CO and you decided not to use any of those
 8 facilities. I mean those facilities would be there for
 9 anybody to use. However, whatever money and time and
 10 effort was expended in order to get those facilities in
 11 that place, it's a zero sum gain. It wouldn't be
 12 someplace else. Is that what you were saying?
 13 MR. WHITE: Well, that, but I was really focused
 14 on that we have had a lot of forecasts that have not
 15 come -- we've actually started engineering jobs and the
 16 CLECs have withdrawn applications.
 17 MR. WINCHESTER: So in your mind is the
 18 credibility of those forecasts not --
 19 MR. WHITE: It all has to be factored in.
 20 That's why very much we look at the aggregate of the
 21 total demand in an area. If you look at total demand
 22 with this being one of the inputs, then you usually
 23 pick up the things that that --
 24 EXAMINER BRAGDON: Let's finish this line of
 25 questioning and then we'll break for lunch.

1 mean information is always a good thing to have. If
 2 you know that you're going to do something, I think
 3 it's good that we know that. We can figure out, okay,
 4 who do we do this here, who do we do this here.
 5 MR. WINCHESTER: Do you agree that it's a good
 6 thing to have if it's used?
 7 MR. MAGUIRE: Yes.
 8 MR. WHITE: Well, if it's used.
 9 MR. WINCHESTER: If it's considered?
 10 MR. WHITE: Okay, but there are forecasts that
 11 we have received in Maine that have never
 12 materialized. People said they were going to do
 13 something and it never came. So, again I mean, you
 14 know, we have to use it as one of the inputs, but we
 15 can't build to a wish list.
 16 MS. CLAYTON: If it even goes beyond that, we
 17 have CLECs come to us and -- will come to us and have
 18 said that they consider their forecast to be
 19 nonbinding, so we can't use that as the sole basis for
 20 planning.
 21 MR. WINCHESTER: But it sounds like in your
 22 statement that you're saying that CLECs have come in
 23 and forecasted big amounts and never used them, which
 24 would insinuate that you would have this excess based
 25 on this particular forecast, yet people are still

1 MR. MAGUIRE: Okay. The only thing that I was
 2 going to say is that I think John or he qualified his
 3 statement, that's the word I'm looking for, he
 4 qualified his statement upfront saying he was looking
 5 to a forecast for specific line sharing, so that
 6 wouldn't necessarily affect what was going on in the
 7 high-capped world, so --
 8 MS. ROBIDEAL: My question is then so you do use
 9 the forecasts in some respects? You use them -- I
 10 understand what you're saying, is that some of them
 11 don't always come to fruition in terms of what someone
 12 said. Do you have -- how do you determine one's -- if
 13 I put in that I'm going to order in the next three
 14 years 100 DS-1s out of the Bangor CO and Nick does the
 15 same thing, you've got 200 DS-1s in the next -- in the
 16 next two years between two CLECs.
 17 What part of that do you discount, what part of
 18 that do you take as -- as --
 19 MR. MAGUIRE: I couldn't answer that. I mean
 20 that's more of, I think, an engineer's question. Do
 21 you have any input?
 22 MS. ROBIDEAL: I guess from a CLEC perspective.
 23 we're telling you, and I understand some CLECs go away
 24 due to the volatility of the industry, but where do
 25 we -- where do we --

1 MR. MAGUIRE: I don't -- I can't.
 2 MS. ROBIDEAU: If we're giving you this
 3 information and relying on this information to help you
 4 have these facilities available to us --
 5 MS. GILLIGAN: Are you telling us how many new
 6 versus migrations? Or --
 7 MS. ROBIDEAU: I might be telling you both.
 8 MS. GILLIGAN: That would obviously be an
 9 important piece of information.
 10 MS. ROBIDEAU: Right. I think it provides for
 11 both of them in the forecast itself. So what -- do you
 12 have a benchmark? I mean when you say you try to bring
 13 it in together between what you need on your side and
 14 what we're telling you --
 15 MR. WHITE: I wonder if I don't know later Don
 16 can give you -- I'm very focused on outside plans, not
 17 central office space, and line sharing. So my reaction
 18 is when I look at the -- how an outside plant is, you
 19 know, is they're going to start are there new homes
 20 being built. Everybody can forecast they're -- you
 21 know, there's 8,000 customers in this wire center, but
 22 the aggregate adds up when you're all done and it's
 23 still 8,000 customers. So they're going to look at
 24 building permits and cable fill and look at the kind of
 25 services that people intend to deploy. So that's one

1 there.
 2 Traditionally, what we're doing is taking over
 3 what's already existing there on an unbundled network
 4 element basis and then maybe modifying it a little
 5 bit. So I want to make clear that CLECs in this
 6 particular proceeding are not asking you to go out and
 7 build whole new cities and towns, they're really
 8 looking for modifications to existing facilities that
 9 you have out there.
 10 MR. WHITE: That's a very good example, so that
 11 an existing business a couple of T-1s out there and you
 12 get them as a customer, they're probably going to
 13 disconnect our T-1s and go to your T-1s, so you're
 14 still a zero sum gain. So I mean we don't have
 15 to -- if we built to your forecast --
 16 MR. MAGUIRE: Again, we could go on here for
 17 quite a while, but I mean, to say one more thing, if
 18 that's the case, there might be other things we could
 19 do operationally to work around that, and we've
 20 gone -- you know, not going into detail, we just did
 21 that a lot with a particular customer.
 22 EXAMINER BRAGDON: Okay. We will break for an
 23 hour. Please be back at 1:15.
 24 (A lunch break was taken at 12:15 P.M.)
 25 EXAMINER BRAGDON: Okay. So we will resume

1 way that the data is used.
 2 You know, when we looked at line sharing build,
 3 I looked at the line sharing forecast where we were
 4 going to have to do augments and plan for our sizing of
 5 our engineering forces to support the augments and all
 6 those things. And then line splitting, you know, how
 7 much time you should spend -- how many orders we're
 8 going to get to do an efficient flow-through. If it's
 9 a small volume, you dedicate your programmers to it.
 10 If it's a large volume, you do it. So they're used in
 11 a lot of ways when you have a business plan that's been
 12 put in there, but it's just -- if we built everything
 13 that was on that forecast, our utilization would be so
 14 low that -- I mean we could --
 15 MR. WINCHESTER: One last question related to
 16 that. There's been declarations filed and data
 17 requests made or data -- responses to data requests
 18 indicating that a majority of CLEC activity in Maine is
 19 business-related and that CLEC activity in the
 20 business-related category does not constitute or
 21 represent new business, it constitutes or represents
 22 taking over existing business that Verizon once had.
 23 So technically speaking in this particular application,
 24 we're not talking about a huge modification to your
 25 existing plant facilities out there from what's already

1 cross on checklist item 4, and I believe CLEC Coalition
 2 had some additional questions.
 3 MR. WINCHESTER: These questions leave the line
 4 of questioning we had before. Do you want to stick and
 5 finish out the questions we have on the entire
 6 checklist item No. 4 or do you want to open up the
 7 floor for anybody else who may have questions about
 8 DS-1 facilities or facilities in general?
 9 EXAMINER BRAGDON: Given that we've had a break,
 10 why don't you go ahead and do yours, and we may be
 11 bring that subject up again.
 12 MR. JORTNER: I had a few on that subject.
 13 EXAMINER BRAGDON: Okay.
 14 MR. WINCHESTER: All right. In the Verizon
 15 supplemental declaration, I'll ask this of the panel,
 16 anybody can jump in, paragraph 107 related to one of
 17 the examples that Mid-Maine put in its declaration
 18 about problems it had in the processing of an order.
 19 Verizon states that MMC issued its original
 20 CLEC-to-CLEC conversion in error, yet, further down in
 21 the same paragraph, you basically indicate that the
 22 carrier-to-carrier working group in New York is still
 23 formalizing the C to C metrics.
 24 My question is how can an order be placed in
 25 error when the guidelines for that particular order

1 type had not yet been established or formalized?
 2 MR. SULLIVAN: The order was to migrate service,
 3 if you will, so the order should have been placed under
 4 migration as opposed to ordering a brand service at the
 5 same facility for the same customer. That was what was
 6 meant by placement error. There are rules out there,
 7 there are procedures out there that would help the CLEC
 8 understand how to process an order before a
 9 CLEC-to-CLEC migration can be done.
 10 We've done over 800 of them in the New England
 11 region last year, a bunch here in Maine. They're not
 12 detailed end to end but definitely enough so that we
 13 can certainly get your orders through and be done, much
 14 like a migration order is done today. And it is
 15 Verizon and other telecommunication providers are
 16 working together to solve the problem of how we come to
 17 grips with a handle on an industrywide basis a
 18 CLEC-to-CLEC service.
 19 MR. WINCHESTER: You also state that Verizon's
 20 own staffs do not refer these inquiries to the proper
 21 group for resolution. Where internally was the
 22 failure, once it was realized that this was a
 23 CLEC-to-CLEC migration, to direct Mid-Maine to the
 24 proper place to place that order?
 25 MR. SULLIVAN: I believe a call was made to the

1 place and a lot of orders were placed and a lot of
 2 people were contacted, yet nobody was able to direct it
 3 to the right place until after the issue had been
 4 basically closed, and the customer was back to the
 5 win-back group to Verizon based on frustration.
 6 MR. SULLIVAN: I agree, a lot of time took
 7 place. It took 30 days, for example, for you to obtain
 8 a customer service record from another
 9 telecommunications company before you could place an
 10 order with us, so it's an industrywide issue. I think
 11 this is more of an isolated case as opposed to a
 12 widespread case. It's not indicative of how Verizon
 13 would normally process orders, and our
 14 carrier-to-carrier metric system we believe stipulates
 15 to the fact that we do a very good job of providing
 16 accurate and timely order processing on a whole.
 17 MR. WINCHESTER: In your supplemental
 18 declaration, paragraph 111, Verizon indicates a reason
 19 that -- the reason that this order for this particular
 20 example failed was that Verizon gave the incorrect
 21 service address.
 22 EXAMINER BRAGDON: Mid-Maine, you mean?
 23 MR. WINCHESTER: Yes, Mid-Maine. Mid-Maine gave
 24 Verizon the incorrect service address for this
 25 particular order. Where does -- where do CLECs get

1 account manager at Verizon-Maine, and that person
 2 unfortunately did not know the correct place to go to.
 3 That has since been rectified. We've identified that
 4 problem. Should Mid-Maine or any of the CLECs have a
 5 problem on CLEC-to-CLEC migrations, they would call the
 6 group in the NMC, the National Market Center, for a
 7 system, the customer care center. Names and numbers of
 8 those people are posted on our website.
 9 MR. WINCHESTER: But in lieu of that, the void
 10 being that there was not a clearly communicated
 11 standard for how those orders were placed, historically
 12 Mid-Maine had placed several similar types of orders by
 13 simply ordering new loops and then reporting the
 14 numbers to its networks and then basically being able
 15 to provide the customer service to that point.
 16 It was really truly a work-around established
 17 because there weren't clear guidelines established for
 18 how CLEC-to-CLEC migrations happen. So, again, I just
 19 want to be clear that it's hard for me to fathom that
 20 there's an error in the order when the guidelines are
 21 not clearly established or defined and internally your
 22 own folks aren't familiar with those guidelines to be
 23 able to direct our folks to the right places to be able
 24 to get resolution on issue.
 25 If you read the timeline, a lot of time took

1 their service address information when placing an
 2 order?
 3 MR. MAGUIRE: In a new loop situation or --
 4 MR. WINCHESTER: Any loop, either a customer's
 5 address or I want to establish another additional loop
 6 at a customer's premise. Where does that service
 7 address information come from?
 8 MR. MAGUIRE: Well, I --
 9 MR. SULLIVAN: There's a preservice
 10 transaction.
 11 MR. MAGUIRE: Well, if you're going to
 12 move -- in this situation, I think the customer was
 13 your customer was moving to a new location. I would
 14 assume that the customer would know where they were
 15 going.
 16 MR. WINCHESTER: The customer would, but if I
 17 was going to do an address verification so that I knew
 18 exactly where I was placing orders and I did it off a
 19 previously working telephone number or a nearby working
 20 telephone number or a number that actually worked at
 21 the facility they were moving into, where would I get
 22 that information?
 23 MR. SULLIVAN: You would get it from our
 24 preservice order transaction called customer address
 25 validation.

MR. WINCHESTER: Whose database is that?

MR. SULLIVAN: Verizon maintains that database. I think on the LSR that came in, it carried an incorrect service address. I don't think it had anything to do with the fact that you did a dip into our preinquiry transaction, but I think it was just an error of identifying where the customer was moving to.

MR. WINCHESTER: When we generate orders and place service addresses on orders, we do service address verification through that exact database that you indicated, so we got that information and it was provided to us from the system -- or from the systems we had available to us to place orders so --

MR. MAGUIRE: Maybe this is the instance here, but you could go into the address verification system and get an address, but if it's not the right one because your customer is going to a different place, that's going -- that's going to pose a problem.

So, for example, if your customer is going to move into 3 Smith Street and for whatever reason you put 5 Smith Street, hypothetically, the loops will be delivered to 5 Smith Street, and that might be a valid address.

MR. WINCHESTER: If the service address used was gathered or ascertained out of the Verizon database,

MR. MAGUIRE: I mean sometimes -- I'll use the simpler example. Sometimes a customer might say they're going to the ground floor and it's the first floor, that sort of thing. I mean that could --

MR. WINCHESTER: Those things we can understand.

MR. MAGUIRE: That could happen.

MR. WINCHESTER: In your supplemental declaration, paragraph 114, Verizon indicates that Verizon thinks its customer did not want new loops installed at their premise. I'm not sure where Verizon were to gather that information to make that determination that our customer, Mid-Maine CLEC customer, didn't want those loops installed at their location.

Where was that information gathered?

MR. MAGUIRE: I think -- this might be a matter of semantics, but I think what they're trying -- what's being said here is that I don't think it's a quote of the customer per se as it is a -- the customer is not looking for additional loops, the customer just wants to move their service to Mid-Maine. So I think that it's -- it might be a matter of semantics here.

MR. WINCHESTER: I think in this particular case, the way the order was placed was the way the customer and Mid-Maine wanted to place the order, based

then one could actually assume that maybe the information contained in that database not be accurate, that it may have returned a wrong service address based on the information that was put in?

MR. MAGUIRE: Again, maybe Sean would know better than I, but I think your customer knows what building they're moving into; but I think in this particular example, the building number, not necessarily the street or whatever, was the problem.

I mean you could have a valid address for a customer, but it might not be the one that your customer wants to move into.

MR. SULLIVAN: Correct.

MR. MAGUIRE: The address could still be a valid address; we could provide service to that address, but it still could be not the address that the end user wants to have service at. And it would be incumbent upon our customer, Mid-Maine, for example, or whoever our CLEC customer is, to provide us the exact information and the address of where that service is to be provided.

MR. WINCHESTER: Would you agree that sometimes customers use different names or different -- they may not refer to the same street that you may refer to it in your database?

on historical problems with ground-start trunking service. So the customer was well aware of the type of problem being placed and actually requested the order to be placed that way so that they wouldn't have to go live, a hot live cut into a situation where the trunking wasn't actually working the way that they wanted in their PDA. So we ordered new loops so that this service could be tested in advance of any LNP or conversion.

MR. MAGUIRE: I believe in this particular instance, there was a problem with making sure that we had adequate facilities to provide the others, so that's why -- I believe it goes on to say that we had a conference call, and I think that we decided that probably the best thing to do was to work together to make sure that the customer could get migrated over to you; and this way, you know, the customer got what they want, you got what they wanted, and we were able to reuse loops instead of effecting orders.

MR. WINCHESTER: And I think the other thing that was probably failed to be mentioned in the supplemental declaration was that the original was placed as a new loop order, and that order was changed internally at Verizon without notification to Mid-Maine from a new loop order to a hot cut.

1 MR. MAGUIRE: I don't know -- I don't know how
 2 we can do that.
 3 MR. WINCHESTER: Well, I can only tell you
 4 that's what took place. I think there's -- the
 5 information that flows with all the information to that
 6 order would actually support that.
 7 MR. SULLIVAN: If I could just make one comment,
 8 we don't have the ability to change an order. When a
 9 LSR comes in, it is what it is. We can't go in and
 10 change activity types and things like that. I think
 11 the way the order was worked, instead of installing 19
 12 new loops, we got on a three-way conference call and we
 13 said, all right, what do we need to do to satisfy the
 14 customer, and that's what we did. We didn't alter the
 15 physical order that came in to ask for service.
 16 MR. WINCHESTER: You can actually --
 17 EXAMINER BRAGDON: You didn't alter the order
 18 physically, but did you do something different than was
 19 directed on the order that was submitted to you?
 20 MR. MAGUIRE: That is where the operational
 21 issues come into play. If we don't have 19 spare
 22 facilities, this order gets rejected; the customer
 23 stays on Verizon's network. That's it. So I mean I
 24 think the center actually -- they thought out of a box
 25 to figure a way to get the customer to be migrated over

1 were no people in the CO to do the cross-connect work
 2 on the hot cut portion of it so --
 3 MR. MAGUIRE: So what happened is the order was
 4 supported without being completed on the frame?
 5 MR. WINCHESTER: We didn't complete it. We held
 6 off and did not do the conversion that night.
 7 MR. MAGUIRE: Okay. Without getting into the
 8 specifics, if the framework isn't done, the customer
 9 would have remained on Verizon's network.
 10 MR. WINCHESTER: And they did. And they do.
 11 There were other portions of this that --
 12 MR. MAGUIRE: So I'm at a loss as to explain how
 13 the customer lost service if we didn't do anything.
 14 MR. WINCHESTER: The customer lost service
 15 because the scheduled LNP date, when it finally came
 16 around, had been moved so many times that we weren't
 17 able to get the numbers coordinated, imported or cut
 18 effectively on the night so it was --
 19 MR. MAGUIRE: So you imported the numbers
 20 without the work being done?
 21 MR. WINCHESTER: We didn't import the numbers
 22 without the work being done. There was an order
 23 related --
 24 THE REPORTER: Would you slow down and repeat
 25 that.

1 to a Mid-Maine network so the customer got what they
 2 wanted. Mid-Maine got what they wanted; and we
 3 essentially were able to complete an order that might
 4 otherwise have been canceled for lack of facilities.
 5 MR. WINCHESTER: But because of the lack of
 6 coordination with the move from a new loop to a hot
 7 cut, the customer had service interruptions related to
 8 the change of that order without clearly communicating
 9 and coordinating the cut that was about to take place.
 10 As you would openly admit, there's a significant
 11 difference in the way a new loop order is processed and
 12 the way a hot cut is processed, correct?
 13 MR. MAGUIRE: Yes.
 14 MR. WINCHESTER: Okay. And because those were
 15 not properly coordinated, the hot cut procedures were
 16 not properly coordinated among Verizon facilities, we
 17 went into that evening trying to do a hot cut and it
 18 failed, and I was on the phone personally with one of
 19 the managers that was brought into this particular
 20 process to handle it through, and we had to go
 21 backwards. And we had to basically cancel the order
 22 and try again to do it the next day.
 23 MR. MAGUIRE: Okay. I don't know the
 24 particulars of why it failed, but I mean we --
 25 MR. WINCHESTER: The CO work wasn't done. There

1 MR. WINCHESTER: Basically the customer did not
 2 lose service and the numbers -- the numbers were not
 3 ported without the work being done, let's put it that
 4 way. There was a lack of coordination on the -- this
 5 particular conversion for this particular customer.
 6 based on an order change that was originally requested
 7 as new loops and was turned into a hot cut without a
 8 lot of coordination and notification.
 9 That's all the questions I have on that
 10 particular section.
 11 EXAMINER BRAGDON: Anybody else from the CLEC
 12 Coalition? Are we all set? OPA?
 13 MR. JORTNER: I just have a couple of questions
 14 on facilities versus no facilities for terminations.
 15 I'm Wayne Jortner from the Public Advocate's Office.
 16 Exactly what personnel are involved in a
 17 determination that there would be no facilities
 18 available for a CLEC order?
 19 MR. MAGUIRE: The engineering department.
 20 MR. JORTNER: Would that involve one engineer
 21 going out or looking at -- would he be looking at
 22 database records or would he be going out to the
 23 outside plant and looking at what's available?
 24 MR. MAGUIRE: I understand both, if need be.
 25 MR. JORTNER: And would it normally be one

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1 individual or would it be more than one?
 2 MR. MAGUIRE: I believe it flows into an
 3 engineering department, so there isn't one engineer
 4 that sits there with a stack of orders. It goes to a
 5 group of engineers who might be responsible for a
 6 particular area.
 7 MR. JORTNER: But for purposes of one particular
 8 request from a CLEC or some kind of facility, would the
 9 determination for that specific request be made by, in
 10 essence, one engineer?
 11 MR. MAGUIRE: I believe so.
 12 MR. JORTNER: Okay. Is there any process
 13 involved that would prevent an incorrect or an
 14 arbitrary determination that there were no facilities
 15 by that individual?
 16 MR. MAGUIRE: I'm not in the engineering
 17 department so I can't answer that.
 18 MR. JORTNER: But you're not aware of any
 19 process that would sort of catch a mistake or an
 20 arbitrary determination?
 21 MR. MAGUIRE: I believe that there is a review
 22 process placed to look at these things, though, I do
 23 not know the particulars about it.
 24 MR. JORTNER: Is there any way --
 25 MR. MAGUIRE: The --

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1 MR. JORTNER: I'm sorry. Is there any way for a
 2 CLEC to directly ascertain the existence of facilities
 3 without simply asking Verizon?
 4 MR. MAGUIRE: I'm not sure I understand the
 5 question.
 6 MR. JORTNER: If there was a determination of no
 7 facilities, does the CLEC have any recourse, aside from
 8 simply asking Verizon again, is there any other way to
 9 ascertain the existence or nonexistence of the
 10 necessary facility?
 11 MR. MAGUIRE: If they could go out and look to
 12 see if there's anything out there, I don't believe
 13 there's a mechanism in place to do that.
 14 MR. JORTNER: And is there any formal appeal
 15 process to a determination of no facilities?
 16 MR. MAGUIRE: There is no formal appeal process,
 17 but on an individual order basis, if there's something
 18 that pops up where it happens to concern the customer,
 19 they could call into the center and escalate and find
 20 out, you know, is there an issue, is there something
 21 that we can look at.
 22 We try to be as helpful to the customer as
 23 possible but staying within the guidelines, so absent a
 24 formal process, we will endeavor to go look and see if
 25 there's something else.

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1 MR. JORTNER: Okay. And just following up your
 2 recent discussion with Mr. Winchester, if the CLEC is
 3 simply replacing the service that Verizon had formerly
 4 provided to a particular customer, that's when you
 5 would get into the hot cut situation?
 6 MR. MAGUIRE: From what type of facilities are
 7 we talking about, analog UNE loops or high-cap loops?
 8 MR. JORTNER: Could you explain what the
 9 difference would be?
 10 MR. MAGUIRE: We typically do not hot cut
 11 high-cap loops because of the complexity of the circuit
 12 and the fact that the circuit is designed in a
 13 particular fashion, and there might be, as Mr.
 14 Winchester pointed out, differences in the
 15 customer-provided equipment on the end. So high-cap
 16 loops do not typically get hot cut.
 17 We've done it in a mass migration scenario where
 18 one service provider was leaving the marketplace and we
 19 had no other alternatives, but it's very complex and
 20 very labor intensive for all parties involved: and the
 21 actual act is in its infancy as opposed to analog hot
 22 cuts, and even DSL hot cuts, too, to another extent,
 23 where that seems to be a little bit more typical of
 24 what we migrate from one service provider to another
 25 service provider.

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1 MR. JORTNER: So in the latter case in analog or
 2 DSL circuits, it wouldn't be possible to determine that
 3 there were no facilities available because those
 4 facilities would simply be transferred from Verizon to
 5 the CLEC?
 6 MR. MAGUIRE: In some instances you could run
 7 into a no-facility situation involving an analog loop.
 8 For example, if the customer is served on an integrated
 9 digital loop carrier and there were no alternate copper
 10 facilities or there was no universal digital carrier
 11 present, we'll take the order in as a migration and go
 12 out and try to do line station transfers or go through
 13 a number of different steps to see if we could free up
 14 a spare pair to give over to the alternate service
 15 provider. But there are instances in areas that are
 16 only served by IDLC and there is nothing else. We
 17 just -- there's no way to unbundle IDLC.
 18 MR. JORTNER: And in the case of a high-capped
 19 loop, you might get -- you might respond that there's
 20 no facilities, even though it would simply be serving
 21 the same customer by the CLEC that Verizon had formerly
 22 served because you won't hot cut that?
 23 MR. MAGUIRE: Yes.
 24 MR. JORTNER: That's all I have.
 25 EXAMINER BRAGDON: Steve, do you have any

1 questions?

2 COMMISSIONER DIAMOND: No.

3 EXAMINER BRAGDON: I'll ask a couple. It's my

4 understanding that if Verizon finds no facilities

5 available, the CLEC then may order the high cap out of

6 special access; is that correct?

7 MR. MAGUIRE: Correct.

8 EXAMINER BRAGDON: And 90 days after that the

9 CLEC may convert that special access line, special

10 access service to a UNE service?

11 MR. MAGUIRE: It's my understanding that the

12 three-month time frame is typically the minimal

13 term -- minimum term associated with a special access

14 circuit, where I would imagine theoretically they could

15 do it quicker but it would be more expensive for them

16 to do so. They could convert quicker from special

17 access to UNE.

18 So typically I think it's the best practice to

19 wait for the three-month term to be up so they get the

20 best price on special access out of the house, and then

21 they can migrate after that.

22 EXAMINER BRAGDON: So you are saying that they

23 acquire a special access line for a term of 90 days?

24 MR. MAGUIRE: Yes.

25 EXAMINER BRAGDON: That's the -- that's the best

1 Can a nonCLEC, because it's -- the people who order

2 under special access are typically carriers,

3 interexchange carriers. So can a non -- does a

4 nonCLEC pay the same price as a CLEC, yes, to my

5 knowledge, yes.

6 EXAMINER BRAGDON: And do they pay the same

7 price if the MUX is already there for 90 days?

8 MR. MAGUIRE: For special access?

9 EXAMINER BRAGDON: Yes.

10 MR. MAGUIRE: I believe the special access

11 pricing is the same for everyone, irrespective of

12 what's there or what's not there.

13 MS. GILLIGAN: Yes.

14 EXAMINER BRAGDON: Oh, actually, let me ask a

15 couple follow-ups. I understand that there's a new

16 electronic conversion process that's being rolled out

17 in Massachusetts in terms of getting this conversion

18 done electronically versus manually; is that correct?

19 MR. MAGUIRE: I've heard rumors of that, though,

20 again, I don't typically get directly involved in

21 that.

22 EXAMINER BRAGDON: Is anybody who is going to be

23 testifying for Verizon today going to have knowledge of

24 that? Yes. Okay.

25 MR. BOECKE: The next panel.

1 deal on a special access line or --

2 MS. GILLIGAN: No, it's not the best deal on a

3 special. That's the minimum monthly obligation that

4 they would have, would be a three-month. I mean

5 obviously we have term plans that go up years which

6 would give them the best per month rate, but then you'd

7 have a termination liability involved.

8 EXAMINER BRAGDON: And so you are -- you are

9 having them order out of special access to recover the

10 costs associated with doing the construction associated

11 with that adding a MUX or something similar to that?

12 MR. MAGUIRE: I'm not a billing person as much

13 as I'm not an engineer person or pricing person. I

14 believe that the decision was made to -- to build under

15 the special access provision because we are able to get

16 back a portion of the money, though, I'm not sure that

17 it covers the full amount of money involved in a

18 construction project.

19 EXAMINER BRAGDON: Does a retail customer who

20 orders a special access where there's no MUX associated

21 there pay the same rate that a CLEC who orders a high

22 cap with no MUX; do they pay the same rate?

23 MR. MAGUIRE: Does a CLEC --

24 EXAMINER BRAGDON: Or the same term?

25 MR. MAGUIRE: I'll paraphrase your question.

1 EXAMINER BRAGDON: They'll be on the next

2 panel. Okay. I'll save that question until then. Go

3 ahead.

4 MR. HARTMAN: Well, the answer might be is will

5 it be available in Maine?

6 MR. MAGUIRE: That was the question I was going

7 to answer, and that I can answer yes. If it's there,

8 yes.

9 MR. HARTMAN: Okay. Let me ask it again, just

10 so you don't feel slighted or anything like that; we

11 wouldn't want to do that. Two things I'm looking at:

12 The special -- there was a specific matrix that was

13 referenced that was provided to engineers, I believe

14 it's a record request to come in, and that would be

15 helpful to look at; and what it was trying to do was to

16 figure out when for a UNE, if I have it correct, work

17 would be done and when it wouldn't be done, and it

18 seemed to perhaps revolve around a working definition

19 of the word, construction.

20 And, unfortunately, I started thinking, which is

21 not a good thing usually, and I seem to remember

22 back, I won't go back how far, that there was things

23 like expensing versus capitalizing that from an

24 accounting standpoint, is a pretty hard and fast way of

25 doing it.

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1 I did do some research on it and they've raised
 2 the limit considerably. If I read part 32 correctly,
 3 it's up to \$2,000. I'm looking at it. And so what I
 4 was trying to do, and where this may be going is to
 5 maybe, if it's appropriate or I'd like your opinion on
 6 it, to use that kind of a definition on whether work
 7 should be done or shouldn't be done.
 8 In other words, if you used construction for me,
 9 I assume capitalized. That's, to me, in the old, old
 10 days of construction, you capitalize. You don't
 11 expense construction, you capitalize it.
 12 So looking at it from that standpoint, if that
 13 assumption is still true or if it was ever true, then I
 14 was just trying to figure out a better way other than
 15 major versus minor which is kind of squishy.
 16 MR. MAGUIRE: During lunch I was thinking back
 17 on the major versus minor discussion, and I think it's
 18 fairly cut and dry in the letter. If there's existing
 19 common equipment, the shelf, a MUX, what have you, and
 20 we're able to go out there and place a card to run a
 21 cross-connection, we'll do it so that there's no
 22 rejection involved. That's it, cut and dry; we'll do
 23 it.
 24 If we have to go out and put in common
 25 equipment, we have to put in a MUX, a shelf, if we have

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1 to put in a repeater that's not there, if we have to
 2 add cable outside, and I'm being -- you know, this is a
 3 layman's interpretation, that's a situation where we're
 4 not going to go out and build something that
 5 would -- it actually involves going out there and
 6 altering the plan and putting new electronics in.
 7 We're adding outside plant infrastructure in, in order
 8 to make this happen. So it's not even a minor and a
 9 major, it's a will you, won't you type of discussion.
 10 You know, we will -- we'll put in cards; we'll
 11 put in Smart Jacks, we'll put in cross-connections.
 12 We'll cross-connect the existing equipment, but they
 13 won't put new stuff in. That's the way I kind of see
 14 it.
 15 So I don't think we have to get into a
 16 discussion of, okay, where do we define -- where do we
 17 draw the line between major and minor. I think, and
 18 the letter states and I believe it's also in the
 19 practice, it tells you very cut and dry what we will
 20 and will not do.
 21 I understand what you're saying from the point
 22 of capitalization, but then that brings accounting
 23 rules into -- I mean your part 32, I don't think that
 24 that would translate. How do you measure that?
 25 MR. HARTMAN: Okay. I was just trying to figure

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1 out, and I may have lucked out and hit on the theory
 2 behind the matrix.
 3 MR. MAGUIRE: I understand.
 4 MR. HARTMAN: That's all I was trying to do, was
 5 to try to figure out some kind of logic to it without
 6 seeing it. I'm sure there's logic to it, I'm just
 7 trying to take a look and figure that out.
 8 MR. WHITE: Accounting doesn't flow because what
 9 you're talking about was the accounting in the outside
 10 plan where construction is capitalized but inside
 11 you've got electronics that are capitalized, so there's
 12 not -- there's not the same analogy inside.
 13 MR. HARTMAN: Yeah. What I was turning on, I've
 14 heard the word, construction, and normally for
 15 construction, I'm used to seeing an estimate and I'm
 16 used to seeing most estimates that says dated and they
 17 were capitalized when they got rolled in, when they got
 18 completed. I don't remember a lot of them that did,
 19 but that, again, was a very lower -- much lower
 20 threshold of expense versus capitalization.
 21 MR. MAGUIRE: The custom work orders or EWOs,
 22 engineering work orders, I think that they're also
 23 taken into the definition of engineering. So I think,
 24 you know, without dating ourselves, I think you're
 25 thinking more along the lines of the capital program;

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1 you have to go out and do this and that, some of the
 2 things we talked briefly about earlier.
 3 But you could get a custom work order or
 4 engineering work order that might involve something
 5 that doesn't fit into it clearly like some of the
 6 estimate stuff things you might be talking about from
 7 the good old days.
 8 MR. HARTMAN: Okay. But the matrix certainly
 9 sounds like it would be helpful on that, and getting it
 10 available to everybody, that may be helpful also.
 11 Great.
 12 The last one, and this is just kind of to
 13 complete the record a little bit, there was
 14 considerable discussion on the use of forecasts from
 15 CLECs, and we won't go into it. I assume that there
 16 were forecasts received from other parties, and this is
 17 going back, I remember getting forecasts from inside
 18 the company.
 19 I think the issue was what weight was given to
 20 CLECs, and I think the decision -- it came out that
 21 there was judgment and it wasn't accepted straight
 22 out. Is that also true for other forecasts you might
 23 get from, for example, even internal?
 24 MR. WHITE: As an engineer when you get
 25 forecasts, especially when they're from multiple

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1 sources, whether it's internal or external, you worry
 2 about double-counting and overly optimistic workouts.
 3 So in most of those cases, you have to add that with a
 4 grain of salt and look at what the real forecast is
 5 then versus the growth and meld that, but never would
 6 you accept any forecast as accepted as given.
 7 MR. HARTMAN: Okay.
 8 EXAMINER BRAGDON: Would you be more willing to
 9 accept it if there was a deposit, some money changing
 10 hands?
 11 MR. WHITE: That's called an order, and we have
 12 even had CLECs, you know, place orders and then for
 13 collocation equipment and then pull it back, so --
 14 EXAMINER BRAGDON: Now, my question generally
 15 goes, it seems, and I think it's a very fair point,
 16 I've seen it in the numbering arena where there's a big
 17 customer and a rate center and five CLECs all think
 18 they're going to serve that customer and really only
 19 one of them, but they each get 10,000 numbers.
 20 So I can understand the need to sort of look at
 21 the situation and say, well, there's only one customer,
 22 but it --
 23 MR. WHITE: I don't know how you would handle it
 24 if five customers gave you 50 percent deposit for the
 25 one customer that's going to be built --

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1 EXAMINER BRAGDON: You're right.
 2 MR. WHITE: It ends up being a very, very
 3 complex process on how you handle deposits. We don't,
 4 you know, build it in advance and -- but we do look at
 5 the aggregate demand when we forecast.
 6 MR. HARTMAN: On loops, didn't we use to do aid
 7 to construction? Again, I'm from the West where we
 8 actually had people that didn't have service and you
 9 had to extend lines.
 10 MR. WHITE: Yes.
 11 MR. HARTMAN: And we'd have folks that there
 12 were certain rules the Commission would have, and then
 13 if you wanted to go beyond that, there was an aid to
 14 construction.
 15 MR. WHITE: Yes, a certain number of poles or
 16 lend cable or whatever.
 17 MR. HARTMAN: Whatever it took on that. And
 18 that process seemed to work in order to get facilities
 19 added.
 20 MR. WHITE: Those were to provide tariff
 21 services. Anybody can build and can hire contractors
 22 to do that same kind of thing.
 23 MR. HARTMAN: Well, no. This is -- this would
 24 be on the ILEC facilities. In other words, if it's
 25 okay for a retail customer to do that, it would seem

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1 like the same general processes would be -- could be
 2 used for anyone else using it.
 3 MR. MAGUIRE: Is that like extending beyond
 4 what's already out there?
 5 MR. HARTMAN: Yes.
 6 MR. MAGUIRE: I think we're talking about
 7 augmenting more than anything. That might be a better
 8 word. I don't think we're -- I don't think the CLEC
 9 community is they're only serving customers out there
 10 in the far away places.
 11 MR. HARTMAN: What I was responding to is I
 12 thought I heard a statement made that it would be an
 13 unwieldy process in order to have the situation where
 14 deposits or money was put forward, in essence, for
 15 construction. I think I was, I didn't do it clearly,
 16 was trying to allude, well, we've been doing that for
 17 years.
 18 MR. MAGUIRE: Oh.
 19 MR. HARTMAN: So there is a process already set
 20 up, if I remember correctly, that even accounts for it.
 21 to go and take care of the money, so it has been done.
 22 Again, whether it is completely transparent or whether
 23 it fits in the situation, I can't say, but we have done
 24 it in the past on the other side of the Mississippi. I
 25 don't know about this side. Okay.

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1 COMMISSIONER DIAMOND: Let me just ask a
 2 question, and I think you answered this, but I'm not
 3 sure that I understood it correctly. On the
 4 no-facilities policy, if I understand what you said
 5 earlier, you don't keep anything in reserve. As long
 6 as the facility physically exists that the CLEC is
 7 seeking to use and as long as it's not being used by
 8 Verizon, that facility will be made available to the
 9 CLEC: is that correct?
 10 MR. MAGUIRE: As long as it's not being used by
 11 anybody, another CLEC, another Verizon carrier or
 12 whomever. If it's out there, if it's usable, we'll try
 13 to use it.
 14 COMMISSIONER DIAMOND: And is that true of all
 15 facilities or does that vary from the type of facility
 16 or is that --
 17 MR. MAGUIRE: I don't believe so. I believe
 18 that if it's available for unbundling, we'll unbundle
 19 it.
 20 COMMISSIONER DIAMOND: So if you have a
 21 situation, just to go back to something I think
 22 Chairman Welch may have sort of posited, and let's say
 23 you have an 80 percent utilization trigger where if you
 24 hit 80 percent, you then build more at that point. I
 25 mean whatever the facility is, let's assume you've got

1 a hundred in a particular area; you're at 75 being
2 used. A CLEC comes along and wants the last 25 that
3 actually gets you up to 100 percent. You will make
4 that 25 available to the CLEC, and if you don't have
5 it -- if you then get orders directly and you don't
6 have it available promptly for yourself, you just live
7 with the consequences until you can construct whatever
8 facilities you need to satisfy those orders and hit
9 your margin again?

10 MR. MAGUIRE: That's correct.

11 MR. SULLIVAN: That's accurate.

12 COMMISSIONER DIAMOND: Thank you.

13 MR. HARTMAN: And this is different than dark
14 fiber?

15 MR. MAGUIRE: Yes.

16 MR. WHITE: There you will have a spare that's
17 not assigned to anybody. You need a spare for
18 maintenance.

19 MR. HARTMAN: I think that's what we're looking
20 at. Dark fiber has reservations, some folks have it,
21 but what you're saying it's not appropriate here
22 because it's not applicable.

23 MR. WHITE: It's not even a reservation, it's a
24 maintenance fiber that's used by anybody if the fiber
25 were to go bad.

1 can talk specifically about dark fiber.

2 MR. BRANFMAN: Well, there are dark fiber loops.
3 too, aren't there?

4 MR. WHITE: Yes, but we run a fiber out to an
5 RT and if there's fiber available, we utilize it.
6 There's --

7 MR. BRANFMAN: Well, if CLECs have submitted
8 orders for dark fiber and they're turned down because
9 there's no fiber available, would that demand be
10 considered in the augment process when you say that you
11 consider the aggregate demand or the total demand?

12 MR. WHITE: Yeah. I still think Mr. Albert will
13 be the better witness to give you the complete answer
14 on this as to dark fiber.

15 MR. BRANFMAN: As to dark fiber loops?

16 MR. WHITE: Right.

17 MR. BRANFMAN: I have nothing further.

18 EXAMINER BRAGDON: Follow-ups. CLEC Coalition?
19 Verizon?

20 MR. SMITH: We have nothing else. Thank you.

21 MR. DONAHUE: We have a question.

22 MS. ROBIDEAU: I do.

23 EXAMINER BRAGDON: Sorry. Go ahead.

24 MS. ROBIDEAU: This goes to a question that I
25 think Trina asked in part, but if a CLEC -- in the

1 MR. HARTMAN: Right. Okay.

2 EXAMINER BRAGDON: Follow-ups?

3 MR. BRANFMAN: Yes. Mr. Reece and Mr. Maguire,
4 do you recall testifying about augments, considering
5 the total or aggregate demand?

6 MR. MAGUIRE: Mr. White, you mean?

7 MR. BRANFMAN: Mr. White, yes.

8 MR. MAGUIRE: You threw me on that. I drifted
9 off after that. Could you repeat the question again,
10 please?

11 MR. BRANFMAN: Yes. Do you recall testifying
12 about augments, considering the total or aggregate
13 demand?

14 MR. MAGUIRE: Yes.

15 MR. BRANFMAN: And would that include the demand
16 for dark fiber?

17 MR. MAGUIRE: Again, as I mentioned earlier, I'm
18 not an engineer, so I mean everything I spoke about
19 earlier was in generic terms. I don't know how it
20 applies to dark fiber -- dark fiber versus something
21 else.

22 MR. BRANFMAN: Mr. White?

23 MR. WHITE: Again, most of my forecast talks
24 about the loop and the planning. I think really, you
25 know, Mr. Albert will be up later on panel 5, and he

1 comparison of a CLEC versus Verizon's own retail
2 customer, if your retail customer ordered a circuit of
3 some type and there were no -- no facilities available
4 on your first check, would you make those available to
5 that? Would you do what you needed to do to make that
6 available to your retail customers or would you --

7 MR. MAGUIRE: If we had to go out and build for
8 a retail customer would we?

9 MS. ROBIDEAU: Uhm-uhm.

10 MR. MAGUIRE: Yes.

11 MS. ROBIDEAU: That's all my questions.

12 EXAMINER BRAGDON: All set? Okay. Thank you.
13 And Mid-Maine?

14 MS. ROBIDEAU: Just to add to that quickly,
15 would you charge the same?

16 MR. MAGUIRE: Charge the same what?

17 MS. ROBIDEAU: In terms of would you charge your
18 retail customer the same to provide that facility that
19 you would charge the CLEC in a no facility and making
20 us have to order it special access under the FCC 11
21 tariff?

22 MS. GILLIGAN: It's tariff dependent, so if
23 they're ordering from a retail customer, the CLEC would
24 be charged the same retail rates as the retail customer
25 for special access rates.

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1 MS. ROBIDEAU: Versus?
 2 MS. GILLIGAN: Yes.
 3 EXAMINER BRAGDON: Okay. Any further
 4 questions? Thank you. CLEC Coalition on 4?
 5 MR. DONOVAN: Yes. We'll recall the CLEC
 6 Coalition witnesses to the stand with regard to issue
 7 No. 4, assuming there are questions for them.
 8 MR. SMITH: We have no questions. We may if
 9 somebody else does in follow-up, but we don't now.
 10 MR. DONAHUE: I have one follow-up question
 11 based on a question that was asked of Verizon's panel
 12 by the bench that the Verizon panel was not able to
 13 answer.
 14 EXAMINER BRAGDON: Sir, why don't you put your
 15 people on.
 16 MR. DONAHUE: Okay. Why don't you guys go up
 17 there. Checklist item No. 4 was addressed in
 18 declarations of Mid-Maine and Revolution Networks and
 19 in the updated declarations of Mid-Maine which were
 20 submitted today.
 21 Is it correct, Mr. Winchester and Ms. Robideau,
 22 that those declarations and updated declarations are
 23 correct and do not need correction today?
 24 MS. ROBIDEAU: That's correct.
 25 MR. WINCHESTER: That's correct.

1 unfortunately or fortunately, whichever side you're on,
 2 we didn't start placing orders until August. So we've
 3 always experienced the no-facility issue, if you will,
 4 after July 2001.
 5 MR. DONAHUE: Could you give us an estimate of
 6 how many orders you think were accepted by Verizon for
 7 DS-1 facilities before July 2001?
 8 MR. WINCHESTER: Other than 100 percent? I
 9 don't have a -- I don't have an absolute count, but our
 10 ordering activity in terms of numbers of DS-1
 11 facilities requested prior to the release of the letter
 12 was fairly constant, somewhere between, say, 6 and 10
 13 orders a month for DS-1 type of facilities, and that
 14 order in volume has remained constant post that letter;
 15 and we've seen, again, an increase, obviously we didn't
 16 know before, and now we've seen a constant trend of
 17 rejected orders for DS-1 facilities that didn't exist
 18 prior to that letter.
 19 MR. DONAHUE: Thank you. They're available for
 20 further questions.
 21 EXAMINER BRAGDON: What's the approximate
 22 difference in price between ordering let's say a T-1
 23 under UNE versus special access?
 24 MR. WINCHESTER: Under the UNE, depending on
 25 which D average area you're ordering from, it ranges

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1 MR. DONAHUE: Do you recall there was a question
 2 asked of the Verizon panel that was up here a little
 3 while ago by the hearing examiner as to whether, prior
 4 to July 2001 when the letter was issued with regard to
 5 no facilities, was it the practice of Verizon to make
 6 multiplexing available with regard to high-capped LNEs,
 7 and do you further recall, if you recall the first part
 8 of that question, the witnesses indicated they did not
 9 know what the experience and practice was in the State
 10 of Maine?
 11 MR. WINCHESTER: Yes, I do recall that.
 12 MR. DONAHUE: So I was just going to ask, Mr.
 13 Winchester, in your, and Ms. Robideau also, in your
 14 experience in Maine, what was the practice and what did
 15 take place in Maine prior to the July 2001 letter from
 16 Verizon?
 17 MR. WINCHESTER: Solely based on ordering
 18 experience, we had zero orders rejected for no
 19 facilities, and then post the release of this
 20 particular letter, we received a notice and started to
 21 experience a significant spike in the number of
 22 rejections made for no facilities, specifically on the
 23 DS-1 class local loop service.
 24 MR. DONAHUE: Okay.
 25 MS. ROBIDEAU: Revolution Networks,

1 from roughly, say, \$140 to \$160. \$157.42 I think is
 2 the suburban D average price, and I'm drawing a blank
 3 on the urban because there's only one market that
 4 exists and I think it's Portland.
 5 The special access rate for a DS-1 local looped
 6 facility I think is about \$300 on a month-to-month
 7 term, roughly in that number, ballpark, and I'm
 8 just -- I'm averaging. It may be a little bit more
 9 than that, but it's approximately I think about twice
 10 as much as -- yeah, more than double a normal UNE rate
 11 for that particular service.
 12 EXAMINER BRAGDON: Is there a fee to do the
 13 conversion back from special access to UNE?
 14 MR. WINCHESTER: Yes.
 15 EXAMINER BRAGDON: Or to UNE?
 16 MR. WINCHESTER: But I don't what that rate is,
 17 though. If you process an order, certainly it would be
 18 converted.
 19 MR. HARTMAN: I think there was a statement that
 20 hot cut is not available for high cap when you go from
 21 special access to --
 22 MR. WINCHESTER: That's what I heard. That's
 23 what I recall in the testimony.
 24 MR. HARTMAN: Is that your experience?
 25 MR. WINCHESTER: I have not yet successfully

1 converted any of our special access DS-1 local loop
 2 facilities from a special access to UNE. Where we have
 3 been successful in migrating away from a special access
 4 is we've ordered another DS-1 UNE after the original
 5 special access went in. That only becomes problematic
 6 when you go to order a UNE after the special access was
 7 installed and there are no UNES available to convert to
 8 afterwards.

9 The procedure that Mr. Maguire explained is one
 10 that I'm not familiar with and we've not yet been
 11 exposed to, so certainly now that I know that it's
 12 available, we could certainly trial to see whether or
 13 not we could do a simple move from a special access to
 14 a UNE without a disconnect and then a reconnect.

15 MR. HARTMAN: Okay. On the requests for UNES
 16 that came back with a no facilities available, was it
 17 your normal practice to try to get them under special
 18 access?

19 MR. WINCHESTER: We've kind of waffled on this a
 20 couple of times. We did -- the first couple rejects we
 21 did, we did special access, thinking that there was an
 22 easy migration path to go from special access to a UNE;
 23 and subsequently after we did that, we found that it
 24 wasn't quite that clear-cut. And so we still have
 25 customers that we're serving today with special access

1 engaged in one of those orders where a customer we've
 2 taken over has a T-1 facility that's been successful in
 3 converting. It's either a Maine state tariff,
 4 emergency tariff to an unbundled network element.

5 MR. HARTMAN: So in that case, then you'll buy
 6 it under special access?

7 MR. WINCHESTER: We'll try to -- here's what we
 8 end up doing. We'll try to order a UNE beside it, and
 9 if the UNE is not available, then we end up reselling
 10 it if it's under the Maine state tariff. We have a
 11 resellers agreement with Verizon that gives us a
 12 specific discount, so at least there's some margin
 13 built into that particular service if you can't get it
 14 converted to an unbundled network element.

15 MR. HARTMAN: Okay.

16 COMMISSIONER DIAMOND: So you don't avail
 17 yourself to the special access in that situation
 18 because it's just too expensive; is that it?

19 MR. WINCHESTER: It is. If you already had an
 20 MPUC circuit installed, the cost to convert it from an
 21 MPUC circuit to a special access circuit is not
 22 worthwhile so you would just resell it under that
 23 agreement. We're not availed a discount under the FCC
 24 tariff, so we basically buy it at tariff and sell it
 25 at tariff in that particular situation.

1 loops in there because we've not found either a way to
 2 convert them or the available UNE facilities behind
 3 that special access order to order another UNE and
 4 cancel the special access ones.

5 So we've waffled on that. We've said we don't
 6 want to engage in incurring the additional expense to
 7 do that without knowing that there's a clear migration
 8 path to get from a special access circuit to a UNE, and
 9 it sounds like in Mr. Maguire's statements that that
 10 does exist, and we will certainly pursue that when we
 11 get back to the office.

12 MR. HARTMAN: Just so I'm clear on it, so you
 13 have a customer, let's say, has a T-1 already, in the
 14 example you just gave, and if they wanted another T-1,
 15 you're not providing it or what did I miss?

16 MR. WINCHESTER: Most of the areas where we are
 17 running into no-facilities issues are where customers
 18 don't have T-1s today and we want to order a T-1 to
 19 their facility for various reasons, whether it be
 20 Internet connectivity or data transport or something of
 21 that nature, so we're making a request for a service
 22 that doesn't exist today.

23 It's not -- it's not a customer with an existing
 24 service and then converting that existing service to a
 25 UNE. I'm not sure that we've even -- we've even

1 Our experience is that we only order special
 2 access in situations where no facilities exist or
 3 you're trying to establish a new service and no
 4 facilities exist.

5 MR. HARTMAN: Would it be helpful -- I'm
 6 assuming the difference in buying it under the MPUC
 7 tariff versus an interstate tariff is the language that
 8 allows conversion.

9 MR. WINCHESTER: Hypothetically, yes.

10 MS. ROBIDEAU: Yes.

11 MR. HARTMAN: Would it be helpful to have
 12 language to convert MPUC special access or T-1 or
 13 whatever it's called to --

14 MR. WINCHESTER: My -- again, if it needed to be
 15 a separate set of procedures to do that, I'm not
 16 sure -- again, this is a question for Verizon -- I'm
 17 not sure if there are procedures for converting Maine
 18 state -- Maine state tariff circuits to UNES.

19 There supposedly is available, I guess, those
 20 procedures to convert from special access to UNE; but,
 21 again, we try to anywhere we can, obviously, start with
 22 a UNE and finish with a UNE to avoid any conversions or
 23 things of that nature, so --

24 MR. HARTMAN: Okay. Good. Thanks.

25 EXAMINER BRAGDON: Any follow-ups?

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1 MR. SMITH: Just one quick question. You, on
 2 the rates that you quoted on the UNE remand and the T-1
 3 specials, and that's off the top of your head, you
 4 checked this from the tariff in comparison or how?
 5 MR. WINCHESTER: The UNE rates I'm fairly
 6 familiar with because I work with them every day. The
 7 special access rate is something that I recollect
 8 pulling off a bill that we give to Verizon for special
 9 access circuits that we have out there.
 10 MR. SMITH: So it's possible that's not the
 11 correct number?
 12 MR. WINCHESTER: It very much could be. It
 13 could be actually a little bit higher than that.
 14 MS. ROBIDEAU: Thank you.
 15 EXAMINER BRAGDON: Okay. Checklist item No. 5.
 16 Would you please raise your right hands.
 17 (Witnesses sworn.)
 18 EXAMINER BRAGDON: Would you each state your
 19 name for the record, please.
 20 MS. FOX: Susan Fox.
 21 MR. ALBERT: My name is Don Albert.
 22 MS. DETCH: Margaret Detch.
 23 MS. CANNY: Julie Canny.
 24 MS. ABESAMIS: I'm Beth Abesamis.
 25 MR. BOECKE: And, panel members, you were

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1 responsible for preparing the portions of Verizon's
 2 declarations that deal with access to interoffice
 3 trunking, checklist No. 5; is that correct?
 4 MR. ALBERT: Transport?
 5 MR. BOECKE: Transport.
 6 MR. ALBERT: Yes.
 7 MS. ABESAMIS: Yes.
 8 MS. CANNY: Yes.
 9 MS. FOX: Yes.
 10 MS. DETCH: Yes.
 11 EXAMINER BRAGDON: You don't have those
 12 memorized by now?
 13 MR. BOECKE: They all look alike. The witnesses
 14 are available for cross.
 15 EXAMINER BRAGDON: CTC?
 16 MR. BRANFMAN: Thank you. I'd like to pass out
 17 copies of a number of exhibits I expect I'm going to
 18 use.
 19 EXAMINATION OF PANEL:
 20 (Ms. Abesamis, Ms. Canny, Mr. Albert, Ms. Fox,
 21 Ms. Detch)
 22 MR. BRANFMAN: Now, in paragraph 122 of your
 23 supplemental checklist declarations, you say that
 24 CTC has no experience with Verizon's dark fiber
 25 practices and procedures in Maine, correct?

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1 MS. DETCH: Correct.
 2 MR. BRANFMAN: In fact, as reflected in Exhibit
 3 CTC-21 which is a recent document, CTC has, in fact,
 4 submitted an inquiry form for dark fiber in Maine, the
 5 response to which was from Verizon that there were no
 6 fiber available; isn't that right?
 7 MS. DETCH: Is this the form you just handed out
 8 in the file?
 9 MR. BRANFMAN: Yes, No. 21.
 10 MS. DETCH: Correct.
 11 MR. BRANFMAN: Now, in paragraph 123 you point
 12 out that the Verizon dark fiber offering in Maine is
 13 same or similar to the dark fiber offerings in New
 14 York, Connecticut, Pennsylvania, correct?
 15 MS. DETCH: Correct.
 16 MR. BRANFMAN: And until recently it was the
 17 same as the Verizon's dark fiber offering in Rhode
 18 Island, New Jersey, Vermont and the District of
 19 Columbia; isn't that right?
 20 MS. DETCH: Correct.
 21 MR. BRANFMAN: And CTC, even prior to submitting
 22 the dark fiber inquiry form that's reflected in CTC-21,
 23 had submitted a number of dark fiber requests in
 24 Vermont and New York and other states that have the
 25 same practices as Maine; isn't that right?

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1 MS. DETCH: Correct.
 2 MR. BRANFMAN: Now, Ms. Detch, you testified
 3 recently in the 271 cases in Rhode Island, New Jersey
 4 and Vermont; isn't that correct?
 5 MS. DETCH: Correct.
 6 MR. BRANFMAN: And you also testified in the
 7 Yipes arbitration over dark fiber in D.C.?
 8 MS. DETCH: Correct.
 9 MR. BRANFMAN: And in all of these cases, the
 10 CLECs raised many of the dark fiber issues that have
 11 been raised here; isn't that right?
 12 MS. DETCH: That's correct.
 13 MR. BRANFMAN: And over the last two months the
 14 Commissions in Rhode Island, New Jersey, Vermont and
 15 New -- and D.C. have all required Verizon in some
 16 respects to change its dark fiber policies and
 17 practices to address some of the concerns raised by
 18 CLECs; isn't that right?
 19 MS. DETCH: There have been some orders issued
 20 and there have been some modifications to the offering,
 21 correct, in those states.
 22 MR. BRANFMAN: Now, Exhibit CTC-6 is, in fact,
 23 the Rhode Island order that you were just referring to;
 24 isn't that right?
 25 MS. DETCH: That's the Rhode Island order,

1 correct.

2 MR. BRANFMAN: And in that order on December 3,

3 2001, the Rhode Island Commission determined that

4 Verizon should be required to splice dark fiber at any

5 technically feasible point so as to make dark fiber

6 continuous through one or more intermediate offices

7 without requiring a CLEC to be collocated at such

8 intermediate offices?

9 MR. CLEMONS: Objection. The order speaks for

10 itself.

11 EXAMINER BRAGDON: Is his characterizing

12 substantially correct?

13 MS. DETCH: It sounds it but --

14 MR. CLEMONS: I'll let the witness speak to

15 that.

16 MS. DETCH: -- but I'd have to go through and

17 look and read to make sure he's paraphrasing everything

18 correctly, so I can read the order.

19 MR. BRANFMAN: Well, I'll --

20 MR. CLEMONS: The order is in the record.

21 MR. BRANFMAN: The changes that the Rhode Island

22 Commission made with respect to allowing CLECs to --

23 strike that.

24 In Rhode Island the Commission allowed a CLEC to

25 order dark fiber between office A and C, even if there

1 and C if they're not collocated at office B; that's in

2 between A and C, right?

3 MS. DETCH: Right. The Verizon offering is in

4 compliance with requirements of the order in which it

5 defines dark fiber as a continuous route between two

6 endpoints and does not require any construction efforts

7 in order to create something that's not in existence,

8 and that would include even cross-connects in which the

9 UNE remand order goes into detail in regards to

10 cross-connects are utilized to provide access to a UNE

11 but are not for becoming a part or a creation of a new

12 UNE that's not in existence.

13 EXAMINER BRAGDON: I'm going to jump in here and

14 cut to the chase. Is there any -- I understand what

15 Verizon's position is regarding what is and isn't

16 required under the UNE remand order.

17 Is there any reason, however, any technical

18 reason why Verizon could not provide the same terms and

19 conditions relating to dark fiber in Maine as it does

20 in let's just say, for example, Massachusetts?

21 MR. ALBERT: I would say there's one aspect in

22 Massachusetts which is the access to dark fiber at

23 existing splice points that we believe is not

24 technically feasible for a number of different reasons

25 upon which I could elaborate, if you would like.

1 was an office B in between where the CLEC wasn't

2 collocated, correct?

3 MS. DETCH: Correct.

4 MR. BRANFMAN: And Verizon was directed to

5 splice the fiber at office B so as to make it a

6 continuous strand going from A to C, if that's what the

7 CLEC was trying to order, correct?

8 MS. DETCH: I'd have to read through to make

9 sure that's exactly what it said.

10 EXAMINER BRAGDON: Was the splicing --

11 MS. DETCH: In regards to exactly what it says

12 in the splicing, I think the language is narrow.

13 MR. BRANFMAN: Somebody would have to splice the

14 fibers at central office B in order for the dark fiber

15 to be utilized between A and C; isn't that right?

16 MR. ALBERT: Actually, you'd cross-connect them

17 at the central office. You'd run jumpers on the fiber

18 distribution frames which is a different activity than

19 what splicing is.

20 MR. BRANFMAN: Okay. And then that would be

21 Verizon that would do that under the Rhode Island order

22 as opposed to a CLEC or someone else?

23 MS. DETCH: Correct.

24 MR. BRANFMAN: And in Maine today Verizon does

25 not permit a CLEC to get dark fiber between office A

1 The main reason for that is that Massachusetts'

2 order first came out of an arbitration that was before

3 the UNE remand order. Since then, we've had a number

4 of other states where we've had proceedings and we've

5 gotten confirmation of Verizon's position of not

6 technically feasible.

7 But basically what it comes down to is to access

8 any UNE, including dark fiber, there needs to be an

9 accessible terminal which is a physical place that's

10 designed to make repeated connections and

11 disconnections between the physical facilities of two

12 different carriers. You find that for the offerings of

13 unbundled loops that are on copper; you find that for

14 the offerings of the interoffice facilities and you

15 also find that for dark fiber.

16 In order to be technically feasible, you need to

17 have a durable design on a piece of hardware which

18 allows on an order basis the repeated connecting and

19 disconnecting of the facilities of two carriers'

20 networks because that's what happens where you provide

21 access.

22 The other thing that you need then also is a

23 test point which allows you to rapidly test to isolate

24 trouble conditions to determine which carrier's network

25 the particular problem is in. That, in turn, then also

1 relates to the overall speed of maintenance and speed
2 of repair.

3 So the primary things that you have all relating
4 to network reliability is there's the ability to have a
5 test point, the ability to have a speedy repair and
6 then the ability to not physically destroy the plant
7 through repeated connections and disconnections. And
8 so the -- the design of an accessible terminal where
9 you can repeatedly on a service order basis make those
10 type of connections, that's what makes that location
11 technically feasible. You don't have these negative
12 impacts from a network reliability perspective that you
13 would have at a splice point.

14 If you look at some of the generalities in the
15 UNE remand order, they talk about this difference
16 between an accessible terminal in between a splice
17 case, and they basically say an accessible terminal is
18 technically feasible and that that's a location where
19 you can make connections and make disconnections and
20 that you can do that without having to breach open a
21 splice case.

22 So from a technical perspective, is there
23 something in Massachusetts that isn't technically
24 feasible, the interconnection of splice points is one
25 of the big items there.

1 equipment on each end -- first of all, we would never
2 be able to test the light continuity from A to Z on
3 something that design, nor would you ever be able to
4 put equipment at both ends and deploy a fiber service.

5 So there are some problems with cross-connects
6 if it's abused in such a manner in a very unrealistic
7 fiber design. So effectively what's really happening
8 when somebody orders fiber that long, can they use it,
9 can anyone else use it or is the fiber just tied up on
10 a 90-mile route, for what purpose?

11 EXAMINER BRAGDON: Well, if they're paying you
12 for it, do you even care what they're using it for?

13 MS. DETCH: If they're paying us for it, it
14 doesn't matter what they're using it for, but the
15 reality is you're going to get the call back saying,
16 oh, there's a problem with the quality of your fiber.
17 You can't even pass light from -- between those two
18 points without equipment somewhere along the line.

19 EXAMINER BRAGDON: Okay.

20 MS. DETCH: So that's really one of the
21 technical issues with cross-connects going through
22 multiple offices.

23 EXAMINER BRAGDON: And I'm sure Mr. Branfman is
24 going to get to the issue of whether the example you
25 just gave is the exception rather than the rule, but

1 EXAMINER BRAGDON: Let me ask you a couple of
2 follow-ups to that. It's my understanding that policy
3 has been in place. I trace these orders back to a 1996
4 TELRIC proceeding and then to an arbitration and, you
5 know, recently an order in 2000 that got into further
6 details.

7 Have there been any specific network problems
8 associated with any splicing done pursuant to this
9 policy?

10 MR. ALBERT: We have had no CLECs interconnect
11 with us or request interconnect with us at splice
12 points in Massachusetts.

13 MS. DETCH: I'd also like to add on the
14 cross-connects, when you do something simplistic as the
15 example Mr. Branfman gave from A to B to C, it
16 typically isn't a technical issue; but what we have
17 found with our experience in Massachusetts is you do
18 get CLECs that try to order a route that, on an
19 engineering level you would never design from A to Z
20 with equipment on each end and be technically able to
21 deploy a system.

22 For instance, CTC put in a request in
23 Massachusetts for one dark fiber circuit running from a
24 Boston location to Hyannis, Mass. which is down Cape
25 Cod which is approximately 80, 90 miles. So if you put

1 let me just ask one follow-up to Mr. Albert's
2 discussion of technical feasibility at splice points.

3 Does Verizon have reason to go to splice points
4 and splice for its own needs?

5 MR. ALBERT: Yes, but that's different than
6 access for a UNE, and let me describe the difference.
7 When we're talking about accessing a UNE, we're talking
8 about the place where two carriers' networks connect.
9 So when I was talking about network reliability and
10 technical feasibility, it was for that specific purpose
11 of that specific use of the word access to UNEs in the
12 context of where and how two carriers physically put
13 their facilities together for the purpose of
14 interconnecting for a UNE.

15 What you'll see is in lots of writing and lots
16 of the testimony, people will broaden that word
17 significantly to draw to the extreme of do you ever
18 touch it, because, obviously, we touch our own fiber
19 and we do splicing; but the big difference is, from a
20 network reliability perspective, the danger of service
21 outages for repeated connections, interconnection and
22 disconnection at a splice point is extremely great to
23 the degradation to the overall level of service, the
24 inability to test.

25 All of those things for interconnecting which

1 are associated with the technical feasibility tie back
 2 into that use of the term, access to a UNE. It's where
 3 the wires meet. We do do splicing and we usually do
 4 splicing construction for ourselves, but that's a much
 5 different set of activities that we do one time and
 6 that we by design try to minimize the extent and the
 7 frequency where that occurs. That's a much different
 8 set of conditions and much different set of
 9 circumstances than having service orders for dark
 10 fibers that you're repeatedly connecting or
 11 disconnecting or services orders for unbundled loops.

12 If you look at the technical standard that
 13 exists for any UNE, be that unbundled IOF or unbundled
 14 loops for dark fiber, the technical standard for where
 15 the physical interconnection occurs, where the access
 16 to the UNE occurs, all of those take place at an
 17 accessible terminal where you have -- don't have the
 18 network reliability problems.

19 EXAMINER BRAGDON: But I believe, Mr. Albert,
 20 we've come full circuit in the sense that you just said
 21 that nobody in four years has asked, and believe me, I
 22 will be asking the CLECs when they are sitting where
 23 you are, why it is important that they need the splice
 24 points, if, in fact, nobody is using them.

25 But if, in fact, nobody is using them, then how

1 negatives in there. I'm assuming you place
 2 well-trained technicians in the field to do this work?

3 MR. ALBERT: We're talking about two different
 4 types of work. There is splicing involved on a
 5 one-time basis with building a plant, and that is much
 6 different than repeatedly splicing to hook up and to
 7 disconnect service order circuits.

8 EXAMINER BRAGDON: Well, on a one-time basis,
 9 one to one, is the activity the same? Is a splice a
 10 splice?

11 MR. ALBERT: On --

12 EXAMINER BRAGDON: I mean is the physical work
 13 that's done the same, whether it's you splicing it for
 14 your network or you going in and splicing it pursuant
 15 to a dark fiber? I mean you seem to be saying it's a
 16 completely different thing if you do it over and over
 17 again, and I can understand that that might be the case
 18 if it's repeatedly happening, but individually each
 19 time is the work generally the same type of work being
 20 done?

21 MR. ALBERT: If you're doing fusion splicing of
 22 Verizon fibers to Verizon fibers, that would be the
 23 same as fusion splicing CLEC fibers to Verizon fibers.

24 EXAMINER BRAGDON: Okay.

25 MR. ALBERT: The risks that you encounter and

1 great is the network reliability issue?

2 MR. ALBERT: Well, if you're saying is there a
 3 problem if it never happens, if it never happened, we
 4 wouldn't have a problem. If it happened once, we'd
 5 have a problem.

6 EXAMINER BRAGDON: Right. And I think would you
 7 agree that the likelihood of it happening grows the
 8 more times one attempts to splice?

9 MR. ALBERT: Oh, when I said happening, I mean
 10 the first one that we would build in that fashion would
 11 run all of the risks and the dangers and the negative
 12 impacts on network reliability that I described. It's
 13 not that you do four or five and then you start to
 14 encounter those things, all the negatives from a
 15 network reliability perspective you would incur the
 16 first time you actually had an arrangement where you
 17 spliced our fibers to a CLEC's fibers for a dark fiber
 18 circuit and then came back and disconnected it and then
 19 came back and reconnected it.

20 EXAMINER BRAGDON: But you're not going to tell
 21 me that your technicians aren't trained to do this work
 22 and that they would generally be trying not to avoid
 23 network problems.

24 MR. ALBERT: No.

25 EXAMINER BRAGDON: There's too many double

1 the service outages that you would encounter are a
 2 function of the number of times that you have to splice
 3 and resplice, a function of the number of times that
 4 you have to go in and enter a splice.

5 If you take two fiber strands of glass, you
 6 know, with 30,000 circuits shooting down two of them,
 7 even if you bend too much, bend it in a little bit of a
 8 horseshoe, you'll disrupt the service. So there's the
 9 service disruptions that occur from actually making the
 10 connection; there's the ongoing service disruptions
 11 that would occur with the disconnections. There's the
 12 fact that you would have to take the splice apart for
 13 test purposes every time you had a repair problem or
 14 maintenance problem.

15 So there are a number of different activities
 16 that once you hook something up on a service order,
 17 that's not the only time and the one time that you've
 18 got to splice it. What that does is that then starts a
 19 series of cases for maintenance and repair and for
 20 disconnection where you'd be continuing to splice.

21 EXAMINER BRAGDON: Do you ever do multiple
 22 splices at the same point for your own purposes?

23 MR. ALBERT: I'm sorry.

24 EXAMINER BRAGDON: Does Verizon ever do multiple
 25 splices at the same spot for its own purposes?

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1 MR. ALBERT: Only very rarely. Generally we try
2 to design stuff so we do it once and we leave it and
3 we're done, and we try and minimize the number of
4 splice points for ourselves and we try and minimize the
5 occasions when they're done.

6 EXAMINER BRAGDON: Okay. I'm sorry, Mr.
7 Branfman.

8 MR. BRANFMAN: Thank you. That's fine. Ms.
9 Detch, CTC hasn't lodged any complaints with you about
10 the quality of the transmission its gotten either on
11 the Boston to Hyannis route or any other dark fiber
12 route; isn't that right?

13 MS. DETCH: Not to my knowledge, but I don't
14 know if CTC has a dark fiber circuit in yet.

15 MR. BRANFMAN: Right. In fact, isn't it true
16 that with respect to every dark fiber inquiry that CTC
17 has submitted, Verizon has found that there are no
18 facilities available?

19 MS. DETCH: I would -- subject to check,
20 possibly.

21 MR. BRANFMAN: Okay. And you heard Mr. Albert
22 testify a little while ago about the arbitrations or
23 decisions subsequent to Massachusetts that New York --
24 perhaps in which states had come down on the other side
25 of the question; isn't that right?

1 MS. DETCH: Actually, there was a subsequential
2 order that deferred the whole issue of access to splice
3 points to a technical workshop. The PA Commission has
4 conducted the technical workshop throughout the fourth
5 quarter of 2001. Staff recently submitted a written
6 report to the Commission recommending against access at
7 splice points and recommending against the creation of
8 new splice points for access to dark fiber.

9 MR. ALBERT: Now, this was a collaborative that
10 we had in Pennsylvania with the CLECs and with the
11 Commission staff. It involved a number of different
12 meetings throughout October and November and December.
13 and the report that Ms. Detch is talking about is the
14 end product of that which basically supported that it
15 was not technically feasible to provide access to dark
16 fiber at splice points.

17 MR. BRANFMAN: Now, Ms. Detch, with respect to
18 paragraph 66 of Exhibit CTC-8, were you present when
19 Yipes' witness, Mr. Holdridge, testified that Qwest,
20 Pacific Bell and BellSouth offered to use the stub-out
21 splicing procedure to provide dark fiber access to
22 CLECs?

23 MS. DETCH: Yes. The witness testified to that
24 but could not provide any documentation that showed any
25 such agreement or procedures on how such a stub-out

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1 MS. DETCH: Correct.

2 MR. BRANFMAN: Now, in the D.C. decision, the
3 Yipes' decision you participated in, the D.C.
4 Commission found that providing access to dark fiber
5 at splice points to CLECs was appropriate in order for
6 Verizon to do so; isn't that right?

7 MS. DETCH: Subject to check to the order.

8 MR. BRANFMAN: Well, we have the order here.
9 It's CTC Exhibit 8. And if you look at paragraph 74, I
10 see that the Commission ruled in favor of Yipes on this
11 issue; isn't that right?

12 MS. DETCH: Paragraph 74?

13 MR. BRANFMAN: Yes.

14 MS. DETCH: I'd have to see what Yipes' language
15 is.

16 MR. BRANFMAN: Well, if you look at paragraph
17 36, you'll see that Yipes is arguing for Yipes to have
18 access to dark fiber at existing splice points; isn't
19 that right?

20 MS. DETCH: Correct.

21 MR. BRANFMAN: Now, also in paragraph 59 of the
22 D.C. decision, they point out that two Pennsylvania
23 recommended decisions agreed with Massachusetts to
24 permit access to dark fiber at splice points; isn't
25 that right?

1 procedure would be performed.

2 MR. BRANFMAN: And do you have any evidence that
3 Mr. Holdridge's testimony was incorrect?

4 MS. DETCH: Actually, I've seen some of the
5 SGATS from some of the different carriers, and it
6 doesn't get into the fine level of detail and discusses
7 stub-out procedures, so I would -- I don't find the
8 testimony quite accurate from what -- the documents
9 I've been able to obtain publicly.

10 MR. BRANFMAN: But none of those documents
11 indicate that Pacific Bell, Qwest and BellSouth don't
12 use stub-out splicing procedure; am I right?

13 MS. DETCH: The documents clearly detail the
14 terms and conditions of access to dark fiber, and I
15 don't recall them clearly defining the stub-out
16 procedure.

17 MR. BRANFMAN: And you're aware that the Indiana
18 Commission has required Ameritech to make access to
19 dark fiber available at -- to CLECs at splice points;
20 isn't that right?

21 MS. DETCH: Actually, I haven't seen that order
22 so I can't even comment on it.

23 MR. BRANFMAN: Now, directing your attention to
24 Exhibit CTC-21.

25 (Off the record.)

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1 EXAMINER BRAGDON: You can go ahead, Mr.
 2 Branfman.
 3 MR. BRANFMAN: This inquiry was submitted by
 4 CTC for dark fiber between the Verizon central office
 5 at 4555 Forest Avenue in Portland to a location on
 6 Johnson Road in Portland, correct?
 7 MS. DETCH: Correct.
 8 MR. BRANFMAN: And Verizon said there was no
 9 fiber available, correct?
 10 MS. DETCH: Correct.
 11 MR. BRANFMAN: And this is a loop rather than an
 12 interoffice fiber; isn't that right?
 13 MS. DETCH: It appears to be, yes.
 14 MR. BRANFMAN: And does Verizon currently in
 15 Maine provide any additional information when it
 16 informs a CLEC that dark fiber isn't available on the
 17 route that they've requested?
 18 MS. DETCH: If there's a short alternate route
 19 to get to the point, they'll let the CLEC know what
 20 that route is.
 21 MR. BRANFMAN: But they won't -- Verizon won't
 22 tell the CLEC what use its making of the fibers that
 23 are on that route that cause them to be unavailable
 24 to -- to the CLEC; isn't that right?
 25 MS. DETCH: Correct, or it could be the case

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1 that, and especially in a loop order, that we may not
 2 have fiber between the two points being requested.
 3 There may not be any fiber cable.
 4 MR. BRANFMAN: But with respect to interoffice
 5 facilities, there's always fibers between any two
 6 nearby offices, it's just a question of whether it's
 7 available or not?
 8 MR. ALBERT: I'd say that's generally true. I
 9 mean you'll find some cases in our network where that's
 10 not the case but not too often.
 11 MR. BRANFMAN: Okay. Now I'll ask you to look
 12 at Exhibit CTC-22, and the second page of this exhibit
 13 reflects that this was also a dark fiber inquiry
 14 submitted by CTC, this time from Dover, New Hampshire
 15 to Manchester, New Hampshire, correct?
 16 MS. DETCH: Correct.
 17 MR. BRANFMAN: And in New Hampshire Verizon is
 18 required to provide some additional information to the
 19 CLEC when it finds that no fiber is available; isn't
 20 that right?
 21 MS. DETCH: Correct, in accordance with an
 22 arbitrated decision issue I think in '98.
 23 MR. BRANFMAN: Okay. And in -- in some of the
 24 other states like Rhode Island, it's also required to
 25 provide some information when a -- when fiber isn't

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1 available; isn't that right?
 2 MS. DETCH: I'm not sure. I'd have to check.
 3 MR. BRANFMAN: Okay. Now, on the first page of
 4 Exhibit CTC-22, Verizon shows two possible routes
 5 between Dover and Manchester and finds that both of
 6 them had segments that had no fiber available,
 7 correct?
 8 MS. DETCH: Correct.
 9 MR. BRANFMAN: And this is information that's
 10 not available to a CLEC in Maine, correct?
 11 MS. DETCH: Correct.
 12 MR. BRANFMAN: And, in fact, using the
 13 information on this first page, CTC could determine
 14 that it could go from Manchester to Dover through
 15 Candia, Raymond, Exeter, New Market, Durham after the
 16 second quarter of 2002 but for the one segment between
 17 Raymond and Exeter; isn't that right?
 18 MS. DETCH: That appears correct, yes.
 19 MR. BRANFMAN: So that if CTC were able to
 20 either construct or purchase fiber from Raymond to
 21 Exeter, it would know that it could get the rest of the
 22 route from Verizon, right?
 23 MS. DETCH: Correct.
 24 MR. BRANFMAN: And that's information that
 25 wouldn't be available in Maine today, correct?

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1 MS. DETCH: Well, in Maine we don't route
 2 through intermediate offices, so they'd be able to
 3 determine the short spans immediately by putting in
 4 inquiries for those spans.
 5 MR. BRANFMAN: Okay. So they'd have to ask for
 6 each span, Manchester to Candia, Candia to Raymond,
 7 Raymond to Exeter, Exeter to New Market, New Market to
 8 Durham and Durham to Dover, right?
 9 MS. DETCH: Correct.
 10 MR. BRANFMAN: That would be six separate
 11 inquiries in Maine as opposed to one inquiry in New
 12 Hampshire, correct?
 13 MS. DETCH: Correct.
 14 EXAMINER BRAGDON: Is there a reason that the
 15 same information that is provided in New Hampshire
 16 could not be provided in Maine? And the second part
 17 is, is there a reason why you can't give the
 18 information -- information through intermediate offices
 19 in Maine?
 20 MS. DETCH: The first part of the question is
 21 the reason why we can't provide the information? If we
 22 develop something, we'd have to submit new revised cost
 23 studies to incorporate all the additional costs to not
 24 only look up alternate routes but to go into fiber
 25 inventory plats and records for each route and to have

1 someone quickly sketch out a map, so there would be
 2 additional costs incurred for the additional work.
 3 MR. BRANFMAN: Well, there is an additional
 4 charge in New Hampshire for the additional information
 5 that's provided in CTC-22: isn't there?
 6 MS. DETCH: Uhm-uhm.
 7 MR. BRANFMAN: Isn't it approximately \$130?
 8 MS. DETCH: That sounds correct, subject to
 9 check.
 10 MR. BRANFMAN: And if CTC wants the additional
 11 information, they can pay the \$130 to get it; if they
 12 don't want the information, they can hold on to the
 13 \$130, correct?
 14 MS. DETCH: Correct.
 15 MR. BRANFMAN: So is there any reason why the
 16 same approach couldn't be taken in Maine?
 17 MS. DETCH: I think I just answered that.
 18 COMMISSIONER DIAMOND: I'm sorry. What was your
 19 answer?
 20 MS. DETCH: That we have to modify the product
 21 to our frame and perform a new cost study and submit
 22 what the new additional work effort would be and the
 23 cost would be to do that.
 24 MR. DIAMOND: Additional?
 25 MS. DETCH: Work effort and costs associated to

1 process.
 2 EXAMINER BRAGDON: I'm assuming, since you
 3 figured it out in New Hampshire, you'd be able to
 4 figure it out for Maine?
 5 MS. DETCH: New Hampshire is different because
 6 we route through intermediate offices.
 7 EXAMINER BRAGDON: Well, that's the second --
 8 MS. DETCH: So in this case when they get the
 9 cable documentation, you're only getting that when
 10 there's no fiber, so they have a direct one-for-one
 11 when they submit their order.
 12 EXAMINER BRAGDON: Again, is there a reason it
 13 can't be routed through intermediate offices in Maine?
 14 MS. DETCH: Well, I think that gets into the
 15 interpretation of our obligations under the UNE remand
 16 order, No. 1, and, No. 2, I think we've seen instances
 17 especially in Massachusetts of abuse, and it causes a
 18 lot of provisional problems when CLECs order circuits
 19 30, 40, 50, 60 miles long and technicians can't get
 20 light readings.
 21 Now, if there's no light reading, the fiber is
 22 typically considered defective, but it's really a
 23 function of the routing over the distance over so many
 24 intermediate offices that you can't get a continuous A
 25 to Z light reading.

1 do that.
 2 COMMISSIONER DIAMOND: You'd have to come up
 3 with a price for Maine is what you're saying? Okay.
 4 MR. BRANFMAN: Is there any reason why the price
 5 for Maine would be significantly different than the
 6 \$130 price in New Hampshire?
 7 MS. DETCH: I'm not a cost analyst. I'd have to
 8 defer to the cost folks to tell me what the costs would
 9 be.
 10 COMMISSIONER DIAMOND: But assuming that the
 11 company were properly compensated for, is there any
 12 reason why the information could not be made available
 13 to a CLEC that requested it?
 14 MS. DETCH: For a map such as this and looking
 15 at the fiber availability, the only issue I can see off
 16 the top of my head, and this is without going back to
 17 the product team, when ASRs are submitted today, the
 18 reps check with the service delivery engineers who
 19 process the upfront inquiry to determine if an inquiry
 20 has been done. So I think there would definitely be a
 21 disconnect in the orders today for direct routes as
 22 opposed to indirect routes if you had one inquiry for a
 23 host of routes as opposed to right now it's a
 24 one-to-one correlation. So I'd have to determine what,
 25 if any, glitch that would cause in the ordering

1 MR. HARTMAN: If it's -- if you can't get a
 2 light reading, do you turn it over to the CLEC?
 3 MS. DETCH: No. It ends up being marked as
 4 defective. If we can't get a light reading, we can't
 5 use it either. If you can't pass light, you can't
 6 energize the system over fiber.
 7 MR. HARTMAN: All right. So on the example that
 8 you had before with CTC, from a practical standpoint,
 9 what happens? In other words, you spliced --
 10 MS. DETCH: From a practical -- well, you
 11 wouldn't splice. Are you talking about the --
 12 MR. HARTMAN: You cross-connected.
 13 MS. DETCH: You cross-connected. Theoretically,
 14 you'd have to dispatch a number of technicians to try
 15 and take readings point to point to point to point to
 16 point and then assume, if they get successful readings
 17 from each point, that the fiber will work.
 18 MR. HARTMAN: Now I'm getting --
 19 MS. DETCH: In other words, say 90 miles, say
 20 you had an office every five miles, so you have 45
 21 offices. You could probably get a technician to
 22 read light from office 1 to 3 or 4 and say from 4 to 7,
 23 and you'd have to send a technician out to read from 7
 24 to 11 and so on and so on and so on until they get to
 25 the endpoint; and then you can assume, if we could pass

1 light on each of those spans, we're going to assume
 2 that light will pass the whole route. But they'd never
 3 get a reading from office 1 to the last office for
 4 something that long. It's just you need some
 5 parameters around what's --
 6 EXAMINER BRAGDON: Have you filed any complaints
 7 with the Massachusetts or New Hampshire Commissions
 8 regarding abuses of this policy?
 9 MS. DETCH: Not to my knowledge. That would be
 10 subject to check.
 11 MR. HARTMAN: Is it a great percentage of the
 12 time? Is it like 80 percent of the time with these
 13 problems or is it 8 percent, just trying to get an
 14 order of magnitude on --
 15 MS. DETCH: I'd have to check, probably less
 16 than 10.
 17 MR. HARTMAN: Okay.
 18 MR. ALBERT: I think it gets back to the need
 19 for some distance limitation to go with the
 20 overall -- I mean really just what we've had is there
 21 are some states that have ordered that the LNE remand
 22 obligation is that we go from -- that the dark fiber is
 23 defined as one CO to the next to the next to the next,
 24 and then we've got a number of other states that have
 25 ordered that it's the whole way between whatever pairs

1 are asked for.
 2 It's one process that's set up when it's link by
 3 link by link, you know, in the states that have gone
 4 that way. It's a different process that's set up in
 5 states where it's going from A to Z with the
 6 intermediate offices.
 7 I think what Margaret was describing is from the
 8 technical perspective, if you go the A to Z with the
 9 intermediate offices, there still needs to be some
 10 parameter that you attach to the overall number of --
 11 overall distance and overall number of links from a
 12 transmission perspective.
 13 EXAMINER BRAGDON: Do you have any suggestions
 14 as to what that standard would be?
 15 MR. ALBERT: Not off the top of my head. I mean
 16 it's nothing like that's impossible to come up with,
 17 but without it, you do encounter the types of problems
 18 and the circumstances that she was describing.
 19 MR. HARTMAN: Have you seen some states that you
 20 feel have done a better job, assuming intermediate
 21 offices? With that as given as an assumption, are
 22 there some states or -- that stand out as saying, yeah,
 23 that's better than other states? And it may be subject
 24 to check is the right answer.
 25 MR. ALBERT: From what perspective?

1 MR. HARTMAN: Sorry. From looking at distances
 2 and offices -- I mean putting parameters on it.
 3 MR. ALBERT: No, we don't have any parameters on
 4 it in any states yet. Most of the ones that have ruled
 5 for the intermediate offices have been within the last
 6 four or five months or so.
 7 MR. HARTMAN: Okay. Thanks.
 8 MR. ALBERT: Really what Margaret is describing
 9 is something that in hindsight when we have that type
 10 of a process, it would be helpful to have the link and
 11 the distance limitations from the transmission loss
 12 perspective.
 13 EXAMINER BRAGDON: Are you able to identify the
 14 potential for problems from the order in terms of like,
 15 for example, the CTC link from Boston to Hyannis, was
 16 that an order put in all at one time or do you find the
 17 problem that they order, you know, 30 miles in December
 18 and then add 30 miles in January and another 30 miles
 19 in February and then you have your problem of 90 miles
 20 and it not working?
 21 MS. DETCH: No, but if a customer puts in an
 22 inquiry between two points, whether it's 5 miles or 90,
 23 their ASR, when it's submitted, needs to match those
 24 two points; and you process it and provision it as one
 25 circuit between those two points. If they wanted

1 something midway between, they'd need to do their
 2 inquiry and submit their ACRs for that span.
 3 EXAMINER BRAGDON: So my question is you would
 4 be able to identify it from an order that wanted 90
 5 miles worth of --
 6 MS. DETCH: I think when an order comes in, it
 7 just processes through automatically, so a rep probably
 8 wouldn't flag that. It's more when it gets out to the
 9 provisioning end where the engineers will start calling
 10 or the customer will start calling because they can't
 11 get a light reading and how do they handle it because
 12 they're supposed to test from A to Z. So it really
 13 ends up being a lot of issues with the actual
 14 provisioning and installing the cross-connects at the
 15 demarc points, whether its their collocation
 16 arrangement or the customer that crops up as an issue.
 17 EXAMINER BRAGDON: And is the issue that
 18 disputes have developed between Verizon and the CLEC
 19 that have been difficult to resolve?
 20 MS. DETCH: Yes.
 21 EXAMINER BRAGDON: With the availability of a
 22 rapid response team --
 23 MR. BOECKE: Only if you can find the CLEC.
 24 EXAMINER BRAGDON: I mean in all seriousness,
 25 with the availability of someone from the Commission or

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1 someone appointed by the Commission to resolve that
 2 issue quickly?
 3 MS. DETCH: If an order like that came in?
 4 EXAMINER BRAGDON: If a dispute developed.
 5 MS. DETCH: I don't know.
 6 EXAMINER BRAGDON: Okay. You want --
 7 MR. BRANFMAN: Were you here when Mr. Maguire
 8 was testifying about the congestion issue and I believe
 9 said that when there was a particular route that ran
 10 out of fiber, I think he used the term a lightbulb
 11 would go off and an augment would be planned? Do you
 12 recall that?
 13 MS. DETCH: This morning?
 14 MR. BRANFMAN: Yes.
 15 MS. DETCH: Yes.
 16 MR. BRANFMAN: Now, that's what happened with
 17 respect to the Manchester to Candia segment; isn't that
 18 right? There's an augment?
 19 MS. DETCH: Well, there's no direct route -- I'm
 20 sorry, from Manchester to Candia, I can't speak for
 21 that route. Can you on an engineering?
 22 MR. ALBERT: I'm just reading on the exhibit you
 23 passed out. It says target completion, so that sounds
 24 to me like there's a job in process.
 25 MR. BRANFMAN: They were augmenting an existing

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1 fiber to provide more capacity on that route.
 2 MR. ALBERT: They were putting more fibers in
 3 that interoffice facility span.
 4 MR. BRANFMAN: And presumably that was because
 5 they were short of fibers?
 6 MR. ALBERT: Yes.
 7 MR. BRANFMAN: And Verizon is also short of
 8 fibers on the Manchester to Concord segment and several
 9 other segments on this -- on this map, right?
 10 MR. ALBERT: Yes.
 11 MR. BRANFMAN: And the designation with respect
 12 to Manchester to Concord and Concord to Epsom and
 13 Northwood to Barrington, Barrington to Dover and
 14 Raymond to Exeter all say no planned cable.
 15 What does that mean?
 16 MR. ALBERT: That means there's no immediate
 17 relief job to put in additional fiberoptic cables in
 18 that span.
 19 MR. BRANFMAN: So that, in effect, the lightbulb
 20 didn't go off to trigger an order for an augment?
 21 MR. ALBERT: Well, when I was listening to Mr.
 22 Maguire, I don't think he was specifically talking
 23 about the lightbulb in the case of fiberoptic cables.
 24 I think he was more broadly and generally talking about
 25 the engineering approach of augmenting when you get to

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1 the particular utilization points.
 2 MR. BRANFMAN: So with respect to fiberoptic
 3 cables, there isn't necessarily an augment when you run
 4 out?
 5 MR. ALBERT: Correct, not for an individual
 6 10F span. It's not a guarantee that the relief
 7 solution would be to put a new fiberoptic additional
 8 cable in that span.
 9 MR. BRANFMAN: Now, as to the Manchester to
 10 Concord span, Manchester is the largest city in New
 11 Hampshire and Concord is the capital, right?
 12 MR. ALBERT: That's correct.
 13 MR. BRANFMAN: And they're about 20 miles apart,
 14 something like that?
 15 MR. ALBERT: That's about right.
 16 MR. BRANFMAN: And so that would be a heavily
 17 used route, wouldn't it?
 18 MR. ALBERT: Yeah, that's one of our heavier
 19 routes in New Hampshire.
 20 MR. BRANFMAN: So why is it there's no fiber and
 21 no planned augment?
 22 MR. ALBERT: I mean I would just be guessing,
 23 but it could be that there's additional electronics
 24 that are being placed to provide capacity on that
 25 route, change-out electronics, change-out fiberoptic

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1 electronics.
 2 MR. BRANFMAN: So that is a means of augmenting,
 3 a different means of augmenting the capacity?
 4 MR. ALBERT: It's a way of providing additional
 5 interoffice facility capacity between a pair of central
 6 offices.
 7 MR. BRANFMAN: So that you could add electronics
 8 and turn an OC-12 fiber in an OC-48 fiber, for
 9 example?
 10 MR. ALBERT: Very generally. I mean there's a
 11 new type of electronics called dense-wave division
 12 multiplexing that puts more capacity on a given number
 13 of fibers, and that's a relief alternative that we have
 14 for pulling more capacity into the interoffice facility
 15 network.
 16 MR. BRANFMAN: And that would get you up to
 17 OC-192?
 18 MR. ALBERT: Correct.
 19 EXAMINER BRAGDON: Okay. We need to take a
 20 break for the court reporter, and we will come back in
 21 15 minutes.
 22 (A short break was taken.)
 23 EXAMINER BRAGDON: Okay. Let's go back to Mr.
 24 Branfman.
 25 MR. BRANFMAN: Mr. Albert, going back to the

1 issue of Hyannis to Boston, isn't it true that there
 2 have been technological advances such as high range
 3 optics that enhance the ability of a carrier to utilize
 4 a longer span of fiber than previously?
 5 MR. ALBERT: Really it depends on how new the
 6 fiberoptic cable is, because with a lot of newer
 7 electronics, you can actually go shorter than what you
 8 used to be able to go before. So what you would always
 9 need to look at when you look at your fiberoptic
 10 systems is you have to look at the types of lasers that
 11 the system use; you have to look at the speed that the
 12 overall system goes. And although there are some
 13 electronics that depending on the type of newer cable
 14 can go further than what their predecessor could.
 15 What you also run into is there are an awful lot
 16 of new electronics which can't go as far, which is
 17 probably more often the case, particularly over the
 18 older vintage fiber cables that have a higher degree of
 19 loss.
 20 MR. BRANFMAN: Well, isn't it the CLEC's
 21 responsibility to decide whether the particular
 22 equipment that its using to light the fiber will be
 23 capable of utilizing -- effectively utilizing a longer
 24 span?
 25 MR. ALBERT: Yeah, the CLEC is responsible for

1 don't know with this particular case.
 2 MR. BRANFMAN: If a CLEC wanted to ask to see if
 3 they could figure out another way from Raymond to New
 4 Market, how would they go about doing that?
 5 MR. ALBERT: Well, as in this particular type of
 6 example where it's in New Hampshire where the process
 7 involves intermediate offices, we will look at any
 8 reasonable way of getting around blockages, and the
 9 reason I couldn't give you a specific answer is because
 10 I was not involved with this specific request.
 11 You know, clearly if you had to go 100 miles
 12 around the horn to avoid a single blockage, we would
 13 not look at something like that, but the engineers, if
 14 you had a single span that was blocked, if there were
 15 other ways to get around that, they would look at that.
 16 MS. DETCH: And they would. The whole purpose
 17 in New Hampshire with the cable documentation is that
 18 to show that we looked at viable alternative routes.
 19 So these would be the viable alternative routes in
 20 order for a customer to get fiber between Dover and
 21 Manchester.
 22 COMMISSIONER DIAMOND: But that is not service
 23 you would provide in Maine, as I understand you?
 24 MS. DETCH: That is a service we don't provide
 25 in Maine, that's correct. We do provide serving wire

1 the overall design of their fiberoptic system. That
 2 includes the selection of the electronics and the
 3 design of that to work in connection with particular
 4 fiber strands that we have provided.
 5 MR. BRANFMAN: So if the CLEC orders a span
 6 from, say, Hyannis to Boston, they know how far it is
 7 from Hyannis to Boston, too, and they're assuming the
 8 risk that it may be too long a span for their equipment
 9 to provide good service, isn't that right?
 10 MR. ALBERT: Yeah, but what's also true is the
 11 practical reality we've had where when you have
 12 problems and everybody loses. The CLEC winds up being
 13 delayed; we wind up being pulled in to fix it.
 14 Whatever end users were involved are also
 15 disadvantaged.
 16 So if somebody picks something that far exceeds
 17 some basic parameters, then you basically wind up with
 18 everyone having to do more work and having to be
 19 disadvantaged as a result of that.
 20 MR. BRANFMAN: Going back to the first page of
 21 CTC-22, to get around the blockage from Raymond to
 22 Exeter, did Verizon in this case look for alternate
 23 routes between Raymond and New Market that could avoid
 24 going through Exeter?
 25 MR. ALBERT: I would assume so, but I really

1 center maps or CLECs for time and material charges. We
 2 will create a map for the serving wire center and show
 3 them the fiber -- what streets there are fiber routes
 4 in order for them to ascertain and determine for their
 5 inquiries where fiber is. They can utilize that
 6 through placing inquiries for loop fiber.
 7 MR. BRANFMAN: And those maps are for the area
 8 served by a single central office rather than showing
 9 the relationships among the central offices, is that
 10 correct?
 11 MS. DETCH: Correct.
 12 MR. BRANFMAN: Now, if CTC wanted to resolve the
 13 problem of the blockage from Raymond to Exeter by
 14 building its own cable from Raymond to Exeter, would
 15 that take typically six to 12 months to build a span
 16 like that?
 17 MS. DETCH: I don't know.
 18 MR. BRANFMAN: Mr. Albert?
 19 MR. ALBERT: Well, it's the sort of thing how
 20 many, you know, how many people you put working on it
 21 at one point in time.
 22 MR. BRANFMAN: It could be a number of months?
 23 MR. ALBERT: A number of months.
 24 MR. BRANFMAN: And could a CLEC, while it was
 25 building that span from Raymond to Exeter, reserve the

1 rest of the route from Dover to Exeter and from Raymond
2 to Manchester?

3 MS. DETCH: They could just submit an order and
4 they'd have the dark fiber.

5 MR. BRANFMAN: Even though they weren't using
6 it?

7 MS. DETCH: As she mentioned earlier, it doesn't
8 matter if you use it or not. You can order it and have
9 it. Whether you decide to utilize it and put in
10 electronics or not on it, we don't monitor that, nor do
11 we have -- as long as you're paying for it.

12 EXAMINER BRAGDON: The question is, does Verizon
13 allow CLECs to reserve dark fiber?

14 MS. DETCH: No, Verizon doesn't reserve fiber
15 for itself or any other customer, including CLECs.

16 EXAMINER BRAGDON: Verizon does not reserve any
17 dark fiber for itself?

18 MS. DETCH: That's correct.

19 EXAMINER BRAGDON: Okay.

20 MR. BRANFMAN: Doesn't Verizon reserve dark
21 fiber for anticipated growth?

22 MR. ALBERT: We may be getting into semantics
23 over what the word, reserve, means. I can describe it
24 for you what we do.

25 EXAMINER BRAGDON: Well, somebody provided some

1 being reserves. To us it's like a spare tire. You
2 know, you use it; you have to have it there available
3 for when you have a failure so that you can transfer
4 your working systems onto it.

5 COMMISSIONER DIAMOND: And that applies to a
6 working system that a CLEC has, as well as one that
7 you're utilizing?

8 MR. ALBERT: Those would be available to be used
9 for dark fiber if there was a problem on the CLEC dark
10 fiber. The other thing where it comes into play is on
11 our lit fiberoptic systems, we have a number of
12 unbundled circuits of IOF transport for CLECs.
13 unbundled DS-3s, unbundled DS-1s.

14 Those interconnection trunking, all of those
15 services you'll find riding on our lit fiberoptic
16 systems, and those maintenance spares then are also
17 there for backups so when those lit systems of ours
18 which carry a number of other CLEC services would
19 experience a failure. So that's the first item, is the
20 maintenance spares.

21 I think there are a couple interrogatories we
22 answered where we gave the matrix that identifies the
23 number of maintenance spares that we used as a function
24 of the size of the interoffice facility span.

25 For the loop portion of the plant, we don't go

1 data responses in this case that clearly reflected a
2 reservation policy relating to dark fiber.

3 COMMISSIONER DIAMOND: Why don't you describe
4 what you do.

5 MR. ALBERT: What I want to tell you is, does
6 reserving mean that you set that aside and you have no
7 idea what you're going to use it for but you don't let
8 anybody use it, no, we don't do that. But the fibers
9 we have aren't available as assignment -- for
10 assignment as dark fiber fall into two categories.
11 They either are maintenance spares which is kind of
12 like the spare tire on a car. It's there because there
13 are so many eggs that these fiberoptic systems carry in
14 their baskets, that we have maintenance spare fibers
15 available based on the total number of fibers in a span
16 or in a cross-section, that if there is a repair
17 problem, we can take the working systems carrying
18 thousands and thousands of circuits and quickly throw
19 them over onto the maintenance spares.

20 We've got a policy that we've used for at least
21 the last five years, even before dark fiber, that lays
22 out a little bit differently for the IOF network and
23 for the loop network the quantity of maintenance spares
24 that we have.

25 Some people will refer to maintenance spares as

1 by cable size but we go by the number of terminated
2 locations that are in the loop network or the number of
3 locations that have working fiberoptic electronics
4 that have the spares beside them for the failures.

5 So in the loop plant, we use four maintenance
6 spares for every terminated location, and the
7 IOF network uses matrix as a function of size. In both
8 cases the purpose is the same. It's there like a spare
9 tire on a car, to throw services over onto, and that
10 backs up and protects. CLEC dark fiber backs up and
11 protects lit Verizon systems, and there are a number of
12 CLEC services that ride on over the Verizon systems.

13 The other classification or description that we
14 have for fibers that are not available for assignment
15 are ones that are already working, that are already
16 lit, that are already carrying our services on them,
17 and that includes ones that we are currently in the
18 process of building, of doing the planning and the
19 engineering work.

20 So when we get to the point where the
21 engineering says, I have to add more capacity and I'm
22 going to build a new fiberoptic ring and I'm going to
23 put my electronics in Portland and I'm going to put the
24 other end of my ring in Augusta, when we begin
25 the -- commence the process of doing the planning and

1 engineering to build that system to provide more
 2 capacity, at that point in time we'll assign fibers to
 3 that system as we work through the cycle of doing the
 4 actual planning, engineering and construction.
 5 EXAMINER BRAGDON: How long is that cycle
 6 generally?
 7 MR. ALBERT: Usually about 12 months from the
 8 very, very start. In some cases it could be 18; in
 9 some case it could be 8. But if you want a broad
 10 average, the cycle would be around a year. And those
 11 are the situations where we would have then fibers for
 12 those cases that were not available for -- assigned as
 13 dark fiber. Everything else, if it's spare, it's
 14 available for CLEC stuff, it's available for our stuff,
 15 first-come first-serve, just like we talked about with
 16 the other elements.
 17 MR. BRANFMAN: Going back to the map here, if
 18 CTC decided it would build its own fiber between Exeter
 19 and Raymond so as to get from Manchester to Dover, it
 20 would need to be collocated in both Exeter and Raymond,
 21 correct?
 22 MS. DETCH: Are you building fiber between
 23 Verizon central offices?
 24 MR. BRANFMAN: Yes. So as to fill out this
 25 route from Manchester to Dover. We're assuming that

1 completed, somebody else had snapped up the four or
 2 five fibers between Exeter and New Market, for
 3 example. It would have two collocations that would be
 4 of no use, correct?
 5 MS. DETCH: Correct. Typically the inquiry is
 6 utilized by carriers right before they want to place an
 7 order. It is not utilized as a planning tool where to
 8 build their collocation arrangements.
 9 MR. BRANFMAN: But if they don't know where the
 10 fiber is available, how would they know where to
 11 collocate so as to get the fiber?
 12 MS. DETCH: Because they could order other LINES,
 13 not just unbundled dark fiber.
 14 MR. BRANFMAN: Well, I'm assuming that they want
 15 to get from Manchester to Dover and they're not really
 16 interested in Raymond and Exeter. They want to get
 17 from Manchester to Dover, and the only reason they're
 18 collocating in Raymond and Exeter is to pick up this
 19 fiber.
 20 Aren't they running a risk that they would spend
 21 the money to collocate in Raymond and Exeter and then
 22 find that they couldn't get the fiber because somebody
 23 else had snapped it up first?
 24 MS. DETCH: Well, in the example you're giving,
 25 you're building your own fiber.

1 Verizon has available dark fiber from Manchester to
 2 Raymond and from Exeter to Dover and we're going to
 3 fill in the last link to complete the circuit.
 4 MS. DETCH: Well, for access to Verizon
 5 unbundled dark fiber, if you're accessing it in those
 6 offices, yes, you would need to have a collocation
 7 arrangement.
 8 MR. BRANFMAN: Now, can a CLEC order the dark
 9 fiber -- and the collocation arrangement takes 76
 10 business days to build, correct?
 11 MS. DETCH: I don't know the intervals of
 12 collocation.
 13 MR. BRANFMAN: But it's several months?
 14 MS. DETCH: It's possible, yes.
 15 MR. BRANFMAN: And during that time could the
 16 CLEC reserve or order the dark fiber from Manchester to
 17 Raymond and from Exeter to Dover so that when its
 18 collocations were completed, it could then take
 19 possession of that dark fiber?
 20 MS. DETCH: No. Like any, you need -- a CLEC
 21 has to have their collocation arrangement complete
 22 prior to submitting an order for any LNE.
 23 MR. BRANFMAN: So if CTC put in an order for
 24 collocation and spent the money to collocate in Raymond
 25 and Exeter, it might find that when the collocation was

1 MR. BRANFMAN: For part of the route.
 2 MS. DETCH: Between Raymond and Exeter.
 3 MR. BRANFMAN: Right. But we're going to buy
 4 the fiber from Verizon from Manchester to Raymond and
 5 Exeter to Dover.
 6 MS. DETCH: Correct.
 7 MR. BRANFMAN: And if somebody else buys one of
 8 those links of fiber, then the whole scheme falls
 9 apart, right?
 10 MS. DETCH: If you're only purchasing unbundled
 11 dark fiber, yes.
 12 MR. BRANFMAN: So to get around that in
 13 Pennsylvania, Verizon is presently trialing a parallel
 14 process of ordering dark fiber with collocation,
 15 correct?
 16 MS. DETCH: Correct, and as we've testified in
 17 other state proceedings, when the trial is complete,
 18 Verizon plans to implement that provisioning process
 19 across the footprint.
 20 MR. BRANFMAN: So that would include Maine?
 21 MS. DETCH: Correct.
 22 COMMISSIONER DIAMOND: And when do you
 23 anticipate that will be complete?
 24 MS. DETCH: The trial is still ongoing, and once
 25 they finish the trial, they will have time frames as

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1 far as what it would take to upgrade all the systems in
 2 order to do this, so I don't have a time frame at this
 3 time.
 4 MR. ALBERT: Ordering inventory systems in Maine
 5 are a little bit different. Actually, they are a
 6 little bit different state to state, so that's why as
 7 part of the trial, we've got to work through the
 8 requirements of what we'd have to do for the other
 9 states outside of Pennsylvania.
 10 MR. BRANFMAN: Now I'll ask you to turn to the
 11 fourth page of Exhibit CTC-22, and this may require a
 12 little bit of interpretation.
 13 Mr. Albert and Ms. Detch, are you familiar with
 14 these kind of documents?
 15 MS. DETCH: Yes.
 16 MR. BRANFMAN: And looking at the third line of
 17 the capital letters, we start with all caps, it begins
 18 from unit OOOO1, last unit OOOO12: do you see that?
 19 MS. DETCH: Yes.
 20 MR. BRANFMAN: What does that mean?
 21 MS. DETCH: I don't know. Do you?
 22 MR. ALBERT: What, in the header up there?
 23 MR. BRANFMAN: Yes.
 24 MR. ALBERT: That's just talking about from
 25 strand No. 1 to strand No. 12 of the fiber strands.

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1 What you're seeing on this page is unit 1 through unit
 2 40. Each one of those is an individual fiberoptic last
 3 strand.
 4 MR. BRANFMAN: So somebody was looking only at
 5 strands 1 through 12?
 6 MR. ALBERT: Typically the header just -- the
 7 header will just print out, when these pages are
 8 compiled, the header will just print out for the first
 9 12. You wind up having to combine together a number of
 10 different sheets that look like this to build the list
 11 for the whole span.
 12 MR. BRANFMAN: Okay. Now, let me ask you
 13 about --
 14 MR. ALBERT: So in this span there would be
 15 other headers that would pick up the other units. You
 16 might have anywhere from, you know, five to eight
 17 different headers from the inventory system that this
 18 has been built from.
 19 MR. BRANFMAN: Okay. And this is -- this --
 20 this is from Dover to Barrington, right?
 21 MR. ALBERT: Yes.
 22 MR. BRANFMAN: And on line -- strand 21, I see
 23 two dollar signs. That means that that strand is a
 24 spare?
 25 MR. ALBERT: That's right.

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1 MR. BRANFMAN: And when we say spare, it's to be
 2 distinguished from a maintenance spare which is what
 3 strands 22 and 23 are, right?
 4 MR. ALBERT: That's correct.
 5 MR. BRANFMAN: So this should be available for a
 6 CLEC that was ordering dark fiber?
 7 MR. ALBERT: Yes.
 8 MR. BRANFMAN: And the same would be true of
 9 strands 32, 33 and 34?
 10 MR. ALBERT: That's the way it looks.
 11 MR. BRANFMAN: So there are four strands that
 12 are available between Dover and Barrington?
 13 MR. ALBERT: It looks to me like, and, again,
 14 I'm not familiar with this particular one, but just
 15 reading what's here, it looks like that doesn't match
 16 up with the X that's on the front.
 17 MR. BRANFMAN: Right. So that --
 18 MR. ALBERT: So this is either a goof or
 19 there's something more to this than meets the eye for
 20 that particular span.
 21 MR. BRANFMAN: So that if just, for example, if
 22 the request had been from Dover to Barrington, based on
 23 the map, it looks like the answer is no fiber available
 24 and none planned, right?
 25 MR. ALBERT: Based on the map, that's correct.

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1 and there are four fiber strands that appear to be on
 2 the inventory page in the backup.
 3 MR. BRANFMAN: Right. So based on the inventory
 4 page, the four fibers were available, and the answer
 5 should have been to a request for fiber from Dover to
 6 Barrington, yes, we've got it?
 7 MR. ALBERT: That's what I was saying. On the
 8 surface from what I'm looking at, it looks like for
 9 that one span, for a request for four fiber strands, it
 10 looks like that might be a goof.
 11 MR. BRANFMAN: So if in New Hampshire if there
 12 is a goof on Verizon's part, in fact, they say there's
 13 no fiber available but the inventory sheet shows it's
 14 available, the CLEC can come back to Verizon and say,
 15 you goofed, I want these four strands, right?
 16 MS. DETCH: Absolutely, if there was an error
 17 such as that.
 18 MR. BRANFMAN: But in Maine they wouldn't get
 19 this backup information inventory sheet and therefore
 20 couldn't identify the goof, right?
 21 MS. DETCH: No, that's not true. We have two
 22 optional engineering services available to CLECs in
 23 Maine. If the fiber came back and said -- if the
 24 inquiry response said no fiber, they could have a field
 25 survey done to verify if the records were true or not.

1 and they'd dispatch technicians to match up the records
 2 with the actual. They'd actually go out and match up
 3 the strands.
 4 EXAMINER BRAGDON: And approximately how much
 5 would that cost?
 6 MS. DETCH: They would be charged time and
 7 materials for that.
 8 EXAMINER BRAGDON: And approximately --
 9 MS. DETCH: I really don't know.
 10 EXAMINER BRAGDON: No ballpark?
 11 MS. DETCH: I don't know. Honestly, I'd have to
 12 look at the labor rates. I'm guessing two to four
 13 hours worth of work.
 14 EXAMINER BRAGDON: And if the approximate rate
 15 is \$50 an hour --
 16 MS. DETCH: Then that would be 100 to \$200.
 17 EXAMINER BRAGDON: Somewhere in that?
 18 MR. BRANFMAN: And what is the interval for
 19 that? When the CLEC orders the field survey, how long
 20 does it take before they get to it?
 21 MS. DETCH: When they do the estimate, they tell
 22 them exactly what the interval will be, that a CLEC has
 23 provided an estimate upfront on how much time it would
 24 take and how much money, and if they want to move
 25 forward, they approve the estimate, send the check for

1 verify it's one direct route. You're looking at
 2 whatever cables are between those two specific points.
 3 EXAMINER BRAGDON: Well, that would be per an
 4 order because they are limited to ordering between two
 5 central offices, correct?
 6 MS. DETCH: That's what I'm saying. You would
 7 only have one route. You wouldn't have, you know,
 8 infinite number of routes that they're checking. So
 9 the field survey would just be between those two
 10 points, correct.
 11 EXAMINER BRAGDON: Correct, but if they were
 12 trying to get from Portland to Bangor, there's a lot of
 13 central offices in between, and so if you had to piece
 14 that together, that would be a lot of field surveys?
 15 MS. DETCH: It would be a lot of field surveys.
 16 The time involved would be much more significant, yes.
 17 MR. BRANFMAN: Now, turning on to the next page,
 18 I notice that strands 11 and 25 through 30 all say
 19 defective. That means, I assume, that they're not
 20 usable for dark fiber?
 21 MR. ALBERT: They're not usable by ourselves and
 22 they're not usable by the CLECs. They're defective.
 23 MR. BRANFMAN: Now, if Verizon got an order for
 24 some lit fiber or for some retail service from an end
 25 user customer that required one of those fibers, could

1 payment, and when we get the signed estimate in, the
 2 prepayment, Verizon will dispatch within that interval
 3 time. It could be anywhere from five to 30 days,
 4 probably dependent upon the workload in the office at
 5 that time.
 6 EXAMINER BRAGDON: And what is the interval in
 7 New Hampshire for providing this material?
 8 MS. DETCH: Same thing, time -- not for this,
 9 for field surveys?
 10 EXAMINER BRAGDON: No, for this backup
 11 information that is required.
 12 MS. DETCH: This backup information is provided
 13 within 30 business days upon receipt of the actual
 14 inquiry.
 15 EXAMINER BRAGDON: Okay.
 16 MR. BRANFMAN: Now -- of course, in order to
 17 know where Verizon had goofed by using the field survey
 18 method, the CLEC would have to order a field survey
 19 every time that Verizon came back and said no available
 20 fiber, correct?
 21 MS. DETCH: In Maine?
 22 MR. BRANFMAN: Yes.
 23 MS. DETCH: Possibly. But in Maine, again,
 24 where it's direct routes, you wouldn't have such huge
 25 routes going 35 to 40 miles between two points to

1 Verizon try to repair that fiber to put it in service?
 2 MR. ALBERT: Theoretically, but that -- the odds
 3 of us actually doing that are pretty slim. What you
 4 wind up with with individual prior strands is once
 5 they're broke, they're pretty well broke, and the cost
 6 and the effort to go back to try to run them down and
 7 to fix them, you know, that doesn't pan out.
 8 For the most part, when they're nonrepairable,
 9 they're nonrepairable, and the best alternative is just
 10 to add overall more capacity rather than going back and
 11 attempting to run down the individual ones.
 12 MR. BRANFMAN: Has Verizon ever repaired fiber
 13 that was listed on an inventory report as defective in
 14 order to put it into service?
 15 MR. ALBERT: Periodically we will clear
 16 defective troubles like the central office type of a
 17 failure. When we encounter those, though, most
 18 typically they're not even going to get listed on the
 19 inventory as being defective. The ones that are
 20 fixable we'll fix fast, and they won't even make it
 21 into the inventory flagged as defective.
 22 MR. BRANFMAN: So are you telling me that
 23 Verizon has never repaired any fiber that's been listed
 24 in the inventory that's defective?
 25 MR. ALBERT: I mean it's like anything, you can

1 never say never ever, ever, ever, but it's our general
 2 practice, and we very rarely, once we've got things
 3 flagged as defective, we'll go back and fix them.
 4 MR. BRANFMAN: Well --
 5 MR. ALBERT: It's not our practice and it's not
 6 cost-effective and it's not -- it's too big of a risk
 7 of service disruption to the other working services
 8 that are riding on the fibers.
 9 MR. BRANFMAN: Even to the extent that Verizon
 10 does repair defective fibers infrequently for itself,
 11 will it repair defective fibers equally and frequently
 12 for CLECs or not at all?
 13 MR. ALBERT: Well, you're asking me such an
 14 extreme hypothetical. You said have you ever done it,
 15 and I can't tell you no, that there may not have been
 16 ones; but is it something that's our standard
 17 practice. And does it happen very often at all that we
 18 fix them, no, and, consequently, you know, we wouldn't
 19 run and fix failures for CLECs that would be ones we'd
 20 want to fix for ourselves.
 21 MR. BRANFMAN: Well, how would a CLEC be able to
 22 get this fixed if the answer it got back from Verizon
 23 is simply no fibers available? How would they know to
 24 say you've got some defective fibers in there, I want
 25 you to fix them if you'd fix them for yourself?

1 EXAMINER BRAGDON: What state was that?
 2 MR. ALBERT: That was in Virginia, northern
 3 Virginia.
 4 EXAMINER BRAGDON: Okay.
 5 MR. BRANFMAN: Well, how would a CLEC know under
 6 the Maine -- under Verizon's dark fiber practices in
 7 Maine, how would a CLEC even know if there were a
 8 defective fiber that was causing the unavailability of
 9 fiber?
 10 MR. ALBERT: We wouldn't.
 11 MR. BRANFMAN: Now, strands 7 and 8 say pending
 12 DWDM and HO1. Can you translate that for me?
 13 MR. ALBERT: Yes. That's a Verizon job that's
 14 in progress, so that's one where the engineering and
 15 the equipment ordering and the construction is already
 16 going on.
 17 MR. BRANFMAN: And that's dense-wave division
 18 multiplexing?
 19 MR. ALBERT: Yes.
 20 MR. BRANFMAN: So when that job is done, would
 21 that be an OC-192?
 22 MR. ALBERT: It would be the equivalent of it.
 23 MR. BRANFMAN: And what does the 01 mean?
 24 MR. ALBERT: Don't know. Maybe a project number
 25 or local nomenclature that they use.

1 MR. ALBERT: What I'm saying is the ones that
 2 are -- you know, in 99 percent of the time, the ones
 3 that are listed, and that's because I can just never
 4 say absolutely ever, ever, the ones that are listed as
 5 defective are ones that we aren't going to fix for
 6 ourselves, and so we wouldn't fix them for CLECs
 7 either.
 8 Basically -- actually, the reason we have
 9 maintenance spares is so that they are available to be
 10 used when we encounter a defective situation on a
 11 working system. Those maintenance spares for working
 12 systems are also available to CLECs to buy dark fiber,
 13 but once we hit something that we've listed as an
 14 individual defect, like I said, the ones that we do fix
 15 we fix quick, and they don't make it in here. The ones
 16 that are defective are the ones that we don't repair.
 17 EXAMINER BRAGDON: How often have disputes
 18 arisen between Verizon and CLECs regarding whether a
 19 strand is fixable or not, is defective or not?
 20 MR. ALBERT: I've never had a dispute over
 21 whether it was fixable or not. I've had one other CLEC
 22 that has asked if we would fix them on a time and
 23 materials basis, and basically gave them the answer of
 24 we don't fix them like that for ourselves, we add more
 25 stuff, and that was the end of it.

1 MR. BRANFMAN: Now, when that -- those fibers
 2 are completed, it would be possible to groom quite a
 3 number of the OC-48s and OC-12s onto those dense-wave
 4 multi -- dense-wave division multiplexing fibers,
 5 correct?
 6 MR. ALBERT: It would be theoretically
 7 possible. It's something that we don't do that often.
 8 MR. BRANFMAN: And is it also possible to
 9 convert some of these OC-12 fibers like numbers 15 and
 10 16 to OC-48?
 11 MR. ALBERT: That's a -- it depends. It depends
 12 on the type of a dense-wave division multiplexing
 13 system that you'd be using and the types of inputs it
 14 can accept. When I say generally we don't groom, the
 15 reason for that is our main No. 1 rule is that if you
 16 have working fiberoptic systems carrying great, great
 17 quantities of circuits, for instance, an OC-48 would
 18 have something over -- the equivalent of over 30,000
 19 telephone circuits on it, OC-12 would be a quarter of
 20 that or 7 or 8,000 circuits, we try to touch those as
 21 infrequently as possible with the goal being never to
 22 have to touch them.
 23 Every time that you rearrange or that you swap
 24 out electronics or that you do any of those types of
 25 activities, you've got a risk of some very large and

1 significant service disruptions.
 2 MR. BRANFMAN: Well, if a customer ordered --
 3 wanted to order an OC-12 on this route, wouldn't you be
 4 able to make room for it by upgrading one of the OC-12s
 5 to an OC-48 and then moving some of the other OC-12s
 6 onto that OC-48, creating some available fiber?
 7 MR. ALBERT: I mean theoretically there are a
 8 lot of different engineering options to providing more
 9 capacity, that's 1; and, as I said, the options where
 10 we have to rearrange working services usually are at
 11 the tail end of the list of capacity relief
 12 alternatives that we actually pursue.
 13 MR. BRANFMAN: But Verizon does do that for its
 14 own customers from time to time; isn't that right?
 15 MR. ALBERT: It's much more infrequent than time
 16 to time.
 17 MR. BRANFMAN: Well, under what circumstances,
 18 if any, would Verizon be willing to do that to make
 19 available spare dark fiber for CLECs?
 20 MR. ALBERT: We wouldn't. I'm saying very
 21 infrequently and rarely ever do it for ourselves and
 22 also would not rearrange vast quantities of working
 23 services for CLECs.
 24 MR. BRANFMAN: I think I heard a distinction.
 25 You do it very infrequently for yourselves and never at

1 all for CLECs. Isn't that discrimination?
 2 MR. ALBERT: Well, I mean I was -- I don't
 3 know.
 4 MR. BRANFMAN: Moving on to the next page, do
 5 you see fibers 19 and 20 say pending NHNOQD?
 6 MR. ALBERT: You're on the next page?
 7 MR. BRANFMAN: Yes. Do you know what that
 8 means?
 9 MR. ALBERT: What part of the page are you on?
 10 MR. BRANFMAN: 19 and 20.
 11 MR. ALBERT: I'm not sure of that nomenclature.
 12 That would be for another, in progress Verizon system,
 13 but I'm not sure what that nomenclature would
 14 represent.
 15 MR. BRANFMAN: Okay.
 16 MR. ALBERT: Well, okay, it's most likely the
 17 SCID code which would be the numbering scheme, S C I D,
 18 the numbering scheme that we use for the fiberoptic
 19 S O N E T rings.
 20 MR. BRANFMAN: Okay. And moving on to the last
 21 page -- the next-to-the-last page in here -- I'm sorry,
 22 the last page in the exhibit. On this one you have
 23 four spares, four maintenance spares out of 16 fibers,
 24 and that's consistent with your -- Verizon's policy
 25 with respect to maintenance spares in Maine, correct?

1 MR. ALBERT: Let's see. You're on the very last
 2 page?
 3 MR. BRANFMAN: Yes.
 4 MR. ALBERT: Let's see. That's correct.
 5 MR. BRANFMAN: And under the policy with respect
 6 to maintenance spares in Massachusetts, you would have
 7 only two maintenance spares on a 16-fiber cable,
 8 correct?
 9 MR. ALBERT: Well, and I guess that's the one
 10 part of the Massachusetts order I've never been able to
 11 quite figure out, is it takes four glass strands to
 12 work a fiberoptic system. If you've only got two, it's
 13 not going to do you a heck of a lot of good.
 14 The other aspect of the Massachusetts order is
 15 basically it says if we tell a CLEC that dark fiber is
 16 not available because we need to use a greater quantity
 17 of maintenance spares, in the Massachusetts order we
 18 are allowed to do that; we just have to inform the CLEC
 19 that that's been the circumstances.
 20 So when you look at the Massachusetts order
 21 which is for one state where we've got lower quantities
 22 of maintenance spares than what we have used for
 23 ourselves for five plus years, you know, lower
 24 quantities than what we've used since even before dark
 25 fiber was ordered to be provided, you know, in

1 Massachusetts, even the way the order was written with
 2 the 5 percent, if that does relate to less than what
 3 our matrix approach yields, we still have the ability
 4 there to tell the CLEC not available but to tell them
 5 that in this case we're exceeding the 5 percent. And
 6 that's the way the process works.
 7 MR. BRANFMAN: Now, in Maine it's true that over
 8 the last two years approximately 75 percent of the dark
 9 fiber inquiries were met with the response that there
 10 was no fiber available, correct?
 11 MS. DETCH: Correct.
 12 MR. BRANFMAN: And in Massachusetts, referring
 13 to Exhibit CTC-11, the corresponding percentage was
 14 approximately 35 percent. That's 197 out of 559,
 15 correct?
 16 MR. ALBERT: That's correct. The rate in Maine,
 17 though, of availability relative to number of inquiries
 18 is a little bit better than what Vermont has been and
 19 it is a little bit better than what New Hampshire has
 20 been.
 21 MR. BRANFMAN: So that Maine at 75 percent and
 22 New Hampshire and Vermont, the unavailability has been
 23 even worse, but Massachusetts which has a different
 24 policy on maintenance spares, it's only 35 percent,
 25 correct?

1 MR. ALBERT: The -- those are what the numbers
 2 say. You will get a big difference really between
 3 urban versus rural areas. In Massachusetts where most
 4 of the CLEC inquiries that we're getting are in the
 5 Boston area and also once they learn where dark fiber
 6 is available, you then tend to get the requests where
 7 they know they've got it. You just tend to get
 8 different numbers in terms of the inquiries and the
 9 response of availability than what you tend to get in a
 10 more rural area.

11 So if you look at what we've got in Maine, I
 12 think it reasonably compares to the similar numbers
 13 that we have in Vermont and New Hampshire, and actually
 14 in Maine, the availability has been a little bit
 15 greater than those two more rural states.

16 MR. BRANFMAN: Well, didn't you testify in New
 17 Hampshire's 271 that one of the reasons there was a
 18 high unavailability in New Hampshire is people kept
 19 asking for the same heavily traveled routes like
 20 Manchester to Concord?

21 MR. ALBERT: I'd just say you have to be careful
 22 when you look at any of these numbers because this is
 23 just strictly a function of where the inquiries have
 24 landed, and that when you look at the totality, there
 25 are some repeat sections where CLECs have asked for

1 MR. BRANFMAN: You don't retrofit and repair
 2 dark fiber to meet your own required transmission
 3 characteristics?

4 MR. ALBERT: No. No, I think you can find it in
 5 the interrogatories that we answered, and I think it
 6 was one of the CTC ones, that if we have a lit
 7 fiberoptic system that we're trying to build and if the
 8 particular fiber strands that we're going to use for
 9 that system, if they won't meet the specifications, a
 10 loss for those electronics, there are a couple of
 11 different steps that we go through for ourselves.

12 The first step that we do is we try to redesign
 13 the system. We either try to cut down on the length of
 14 the fibers or we select different electronics for the
 15 ends of it that can operate without the characteristics
 16 of the fiber as it is.

17 If that choice is unsuccessful, then the next
 18 avenue that we pursue is we put a repeater into the
 19 circuit. A repeater being another electronic device,
 20 another piece of fiberoptic electronics that increases
 21 and boosts the overall signal.

22 So usually we wind up doing one or two of
 23 those -- one of those two for ourselves, and that's the
 24 order that we go through them in.

25 MR. BRANFMAN: Mr. Albert, in the Vermont 271

1 fibers where there were none available that other CLECs
 2 have also asked for it.

3 MR. BRANFMAN: But weren't you suggesting in New
 4 Hampshire that places where the unavailability was
 5 worst was in the more urban parts of the state,
 6 Manchester to Concord as opposed to the northern part?

7 MR. ALBERT: In New Hampshire that was true. In
 8 Concord to Manchester, that's particularly true.

9 MR. BRANFMAN: Now, directing your attention to
 10 paragraph 127 of the supplemental checklist
 11 declaration, Verizon will retrofit and repair dark
 12 fiber to meet its required transmission characteristics
 13 for use by Verizon, correct?

14 MR. ALBERT: Which paragraph are you on?

15 MR. BRANFMAN: Well, I'm on 127, although I'm
 16 not focusing on any particular part, but I'm just --
 17 this talks about repairs and retrofitting.

18 And the question is, does Verizon retrofit and
 19 repair dark fiber to meet its own required transmission
 20 characteristics for fiber to be used by Verizon?

21 MR. ALBERT: Oh, well, later on in that
 22 paragraph we say, generally Verizon-Maine does not
 23 perform these work operations for itself. It is
 24 available to CLECs, but generally we don't do it for
 25 ourselves.

1 proceeding, did you agree to use the same methods,
 2 procedures and practices to maintain CLEC fibers as
 3 Verizon did for its own fibers in the same sheath?

4 MR. ALBERT: Yeah. And actually I think there's
 5 language like in the Mass. -- and we do this in
 6 negotiations and when we're negotiating the
 7 interconnection agreements, but I think there's
 8 actually language in the Massachusetts DTE 17 that kind
 9 of gets to this whole point.

10 This may help you. It's 17.2, Roman numeral I.
 11 It says, in the event the telephone company must
 12 perform emergency cable restoration to its own
 13 facilities, all efforts will be made to restore the
 14 CLEC leased unbundled dark fiber pairs in the same
 15 manner as other fibers in the same cable sheath using
 16 telephone company standard restoration procedures. And
 17 that, more precise, is the crux of what I was
 18 describing that we would do when we were in Vermont.

19 MR. BRANFMAN: And is there a similar commitment
 20 in Maine?

21 MR. ALBERT: I mean we are in the process of
 22 negotiating interconnection agreements, and if that's
 23 something that a CLEC wanted to have that in there,
 24 we'd be willing to put it in.

25 MR. BRANFMAN: And suppose the emergency arises

1 from the CLEC side of things instead of from the
2 Verizon side of things. The CLEC comes to you and
3 says, we have an emergency, we want you to repair our
4 fibers. Let's suppose, for example, the only lit
5 fibers in the sheath are being used by CLECs.

6 What will Verizon do in that circumstance?

7 MR. ALBERT: I mean that's such an extreme
8 hypothetical I wouldn't even hesitate a guess at that.

9 MR. BRANFMAN: Well, is Verizon willing to
10 commit to repair CLEC fibers under the same
11 circumstances it would repair its own fibers?

12 MR. ALBERT: I'm not sure what's different
13 between the question you're asking and what I just said
14 we were willing to do and willing to negotiate.

15 MR. BRANFMAN: What you said you're willing to
16 do, assumed. I believe, that there were Verizon fibers
17 in the sheath that created the need for the emergency
18 repair; is that correct?

19 MR. ALBERT: It's a Verizon cable so we're
20 always going to have Verizon fibers in the sheath.

21 MR. BRANFMAN: But Verizon doesn't hear about
22 the problem in the fibers unless one of its -- one of
23 the fibers is being used for its own customers,
24 correct?

25 MR. ALBERT: Well, why I said you're talking

1 involved in -- in the development of this document from
2 Verizon's point of view.

3 Were you consulted, for example, with whether
4 this was agreeable to you?

5 MR. ALBERT: I didn't work on this.

6 MR. BRANFMAN: In particular, I'm interested in
7 8A through C.

8 MR. CLEMONS: I'm going to object to this
9 question. My understanding is that this document is
10 a -- the facilitator's recommended report to the New
11 Hampshire Commission as to how this particular
12 proceeding should be resolved. The Commission in New
13 Hampshire has not yet ruled on this. I mean it's not
14 clear what the ultimate disposition of this will be, so
15 I'm not -- I'm not sure that the witnesses should be
16 required to opine upon, you know, whether or not this
17 is an obligation currently in effect in New Hampshire.

18 MR. BRANFMAN: Well, I haven't asked them that.

19 EXAMINER BRAGDON: Where are you heading with
20 this, Mr. Branfinan?

21 MR. BRANFMAN: Where I'm heading is that it's my
22 understanding, and I participated in the process, that
23 this was to some degree negotiated between Verizon and
24 CLECs and other parties and represented an acceptable
25 resolution from Verizon's point of view.

1 about such an extreme hypothetical, if we've got a
2 fiberoptic cable, we're going to have working
3 fiberoptic circuits in it.

4 MR. BRANFMAN: And those may be CLEC circuits
5 they may be Verizon circuits, correct?

6 MR. ALBERT: They're definitely going to be
7 Verizon and they might be a CLEC's.

8 MR. BRANFMAN: Well, Verizon owns the circuits,
9 but it's possible that Verizon may not have any
10 customers using those circuits; isn't that right?

11 MR. ALBERT: I mean you're talking about
12 something that theoretically it's hypothetically and
13 conceptually might be the case, but I can't imagine
14 that practically ever occurring, that the only working
15 service that we would have in a fiberoptic cable would
16 be only and solely CLEC service and not some of our
17 own.

18 MR. BRANFMAN: Well, let me ask you to look at
19 Exhibit CTC-15. I think Mr. Hartman is more familiar
20 with it than anybody else here.

21 MS. DETCH: Just for clarification, this has no
22 title so what is this from?

23 MR. BRANFMAN: I'll represent that it's a
24 document prepared by Mr. Hartman in the New Hampshire
25 SGAT case, and I'll ask whether either of you were

1 EXAMINER BRAGDON: Well, ask the factual
2 question. Verizon, did you participate in negotiations
3 in New Hampshire?

4 MS. DETCH: I've only skimmed the first two
5 pages so far. I would really have to read this. It is
6 not familiar. It appears to be recommendations.

7 MR. BRANFMAN: It's the dark fiber section that
8 Ms. Detch would be involved with which is on the fourth
9 page.

10 MS. DETCH: Actually, just like I've said, I've
11 just skimmed the first two pages which talk
12 specifically about dark fiber, and it gets into a lot
13 of cost elements; and there's a cost proceeding in
14 which I testified via conference call in a technical
15 workshop, but I haven't been involved in regards to any
16 discussions on these TELRIC rates. I would really have
17 to read this whole thing to -- this is the first I've
18 seen this.

19 MR. BRANFMAN: Well, my question is specific
20 with respect to item 8C.

21 EXAMINER BRAGDON: Hang on one second. I'm
22 going to go offline for a second.

23 (Off the record.)

24 EXAMINER BRAGDON: I'm going to ask Mr. Hartman
25 to clarify since he is apparently the author of this

1 document.

2 MR. HARTMAN: It's my understanding and memory

3 on this docket is there was negotiation, and we were

4 looking for a zone of comfort, is how we looked at it,

5 on coming up with it, meaning that no one threw the

6 phone, all right, at anyone, at least we couldn't

7 hear.

8 The way it then worked is that I then appeared

9 before the Commission and brought this report forward,

10 and each of the parties had the opportunity to question

11 the finding. So even though Verizon, for example, and

12 it was open to any other party, might not have thrown

13 the phone on a particular finding, they certainly had

14 the right, and at times exercised it, as did all the

15 parties, to go in and offer alternatives to what may

16 have been -- it was in a single finding.

17 So there's more to it than what is -- what is

18 here, but this was -- this was presented to the

19 Commission. It was a day I was up on the stand, and as

20 we went through each item, each party had the

21 opportunity to offer alternatives to what is here.

22 EXAMINER BRAGDON: Mr. Branfman, are you looking

23 to ask the question whether Verizon is willing to

24 commit in Maine to a specific item that appears on this

25 paper, whether or not Verizon is committed to that in

1 New Hampshire or it's been ordered by New Hampshire?

2 MR. BRANFMAN: Right, and it's 8C and 8A, in

3 particular.

4 MR. CLEMONS: I mean just since we're off the

5 record.

6 EXAMINER BRAGDON: Oh, no, we're on the record.

7 MR. CLEMONS: Oh, we are? Are we on the

8 record?

9 EXAMINER BRAGDON: Yes.

10 MR. CLEMONS: With respect to 8C, I mean my

11 recollection is, and what I think the witness has

12 already attested to, 8C, that if a cable was damaged,

13 that we would repair the whole cable. That may have

14 been on a previous panel that another witness said that

15 this morning, but I also think that Mr. Branfman is

16 aware that that's almost a quote of what Mr. Albert

17 testified to in Verizon -- in the New Hampshire 271

18 proceedings.

19 If he wants to ask the witnesses the questions

20 regarding -- I mean to the extent that they know or

21 were involved, I'm not --

22 COMMISSIONER DIAMOND: Well, he doesn't seem to

23 be reaching for what was agreed to if there was an

24 agreement in New Hampshire. You're just trying to find

25 out what the practice would be in Maine on this

1 subject?

2 MR. BRANFMAN: Well --

3 COMMISSIONER DIAMOND: These witnesses don't

4 seem to be able to testify as to any negotiations that

5 they were involved in in New Hampshire or any agreement

6 they made, so it would seem to me the question would

7 be, quite frankly, be, without having to worry about

8 this document's genesis, would be, and here is the

9 question for the panel, if I could have your

10 attention. I'll let you consult and when you're ready,

11 let me know. Are you ready for the question?

12 All right. Here is the question: If an entire

13 ribbon degrades and Verizon-Maine would in the ordinary

14 course of business repair the fiber, would

15 Verizon-Maine repair all of the strands in the ribbon,

16 regardless of who uses the individual strands?

17 MR. ALBERT: Yes.

18 COMMISSIONER DIAMOND: Does that take care of

19 the subject?

20 MR. BRANFMAN: Yeah, that's 8C, and I guess the

21 same question for 8A.

22 COMMISSIONER DIAMOND: Okay. I can try that

23 again. Let me see. Let me look here.

24 MR. ALBERT: I think 8A I already answered.

25 That's this section that I read from in the DTE tariff

1 about emergency restoration or repair work. Yeah, I

2 mean in the contract negotiations, we'd agree to

3 something like that.

4 EXAMINER BRAGDON: Well, let's be clear. You're

5 saying that you are agreeable to do these things in

6 Maine on an individual interconnection basis --

7 interconnection agreement basis.

8 Have you adopted -- I guess I know the answer to

9 the question. It hasn't been adopted in New Hampshire

10 yet.

11 MR. BRANFMAN: In New Hampshire they have an

12 SGAT.

13 EXAMINER BRAGDON: Yeah, that's what I'm trying

14 to get at. Is similar -- I take it this policy is not

15 the same policy as in Massachusetts?

16 MR. ALBERT: I mean I kind of think it is. I

17 mean we've got slightly different words kind of saying

18 the same thing.

19 EXAMINER BRAGDON: And in Massachusetts it's all

20 tariffed, correct?

21 MR. ALBERT: That's correct.

22 MS. DETCH: Correct.

23 MR. HARTMAN: A comprehensive tariff.

24 EXAMINER BRAGDON: So it's generally available,

25 it doesn't have to be negotiated on an interconnection

1 agreement basis?
 2 MS. DETCH: Correct.
 3 MR. ALBERT: Right.
 4 MR. BRANFMAN: Now, at any given point in time,
 5 Verizon has a fiber that is in the process of being
 6 constructed, correct?
 7 MS. DETCH: I'm sorry. Can you repeat the
 8 question?
 9 MR. BRANFMAN: At any given point in time,
 10 Verizon has fiber that is in the process of being
 11 constructed?
 12 MS. DETCH: Correct.
 13 MR. BRANFMAN: Now, under Verizon-Maine's
 14 policies, does dark fiber have to be completely
 15 spliced and terminated at both ends before Verizon will
 16 consider construction of the fiber complete and deem it
 17 part of the inventory?
 18 MS. DETCH: Correct.
 19 MR. BRANFMAN: Now, could fiber that is not
 20 terminated at both ends be called into use by Verizon
 21 by terminating the fiber at both ends?
 22 MR. ALBERT: By doing additional construction to
 23 it, it could. I mean I can describe what we do in
 24 Maine, and maybe it will help with this whole aspect of
 25 what is construction and what isn't; but basically what

1 The way that is administered and the standard
 2 way is through our inventory systems which include in
 3 there the inventory of all the fibers that are complete
 4 and usable for ourselves as well as for CLECs.
 5 MR. BRANFMAN: I'll ask you to look at Exhibit
 6 CTC-8, specifically page 14. Would you look at the
 7 bottom of the page. The last two words begin the
 8 sentence, Verizon witness, and it goes on to page 15.
 9 Verizon witness, Mr. Myers, testified that attached and
 10 unattached dark fiber are connected to Verizon's
 11 network at the central office and often pulled to the
 12 same locations. Do you see that?
 13 MR. ALBERT: So you're in paragraph 26?
 14 MR. BRANFMAN: Yes. Who is Mr. Myers?
 15 COMMISSIONER DIAMOND: If you know. If you
 16 don't know, just say you don't know.
 17 MR. ALBERT: I think he's one of our
 18 construction managers.
 19 MR. BRANFMAN: Ms. Detch was cowitness in this
 20 proceeding. Maybe she knows who he is.
 21 MS. DETCH: He's in construction or outside
 22 plant manager for the D.C. area.
 23 MR. BRANFMAN: And was his testimony accurate,
 24 that attached and unattached dark fiber are connected
 25 to Verizon's network at the central office and often

1 we do for dark fiber parallels what we do for
 2 ourselves, and a dark fiber is complete and it's usable
 3 if it's got a termination point on each end, basically
 4 a standard interconnection test point where you can
 5 make cross-connections and where you can plug fibers in
 6 and plug fibers out.
 7 If it's got those on both ends and if it's a
 8 continual pair of glass fibers all the way from end to
 9 end, then that is a complete, fully assembled, usable
 10 dark fiber. It's in our inventory so then that when
 11 service orders come through; it can be assigned and it
 12 can be used; and that fully assembled, fully
 13 constructed condition that I described, that has to
 14 exist for us to use it, for our own orders that involve
 15 fiber, and that fully completed, constructed
 16 configuration also has to exist for a CLEC to use it as
 17 dark fiber. And anything short of that requires
 18 construction because you've got to build something, add
 19 something to turn it into a complete, fully assembled
 20 continuous unit with hard terminations on either end.
 21 So in the broad generality what is construction,
 22 it's any kind of activity that you've got to build to
 23 make that into a finished and complete state. When
 24 it's in its finished and complete state, we can use it
 25 for ourselves; CLECs can also use it as dark fiber.

1 pulled to the same location?
 2 MR. ALBERT: I'm not sure what he's saying when
 3 he says pulled to the same location. I mean when we're
 4 in the process of building fiber which can, you know,
 5 occur over time as we put in additional fiber cables,
 6 you can have some of it that's got a termination at the
 7 central office, but we don't have it fully built out
 8 into the loop portion of the network yet; and when it's
 9 not built out into the loop portion of the network
 10 fully and when it's not at a termination point, I mean
 11 we can't assign it to service orders for ourselves and
 12 we can't assign it to service orders for CLECs. But
 13 when he's talking here about often being pulled to the
 14 same location, I'm not quite sure what that is.
 15 MR. BRANFMAN: Well, going on to the next
 16 sentence, perhaps this sheds more light on it:
 17 Attached fiber is then run through a splice frame and
 18 attached termination equipment while unattached fiber
 19 is not. Is that correct? Would you say that
 20 distinguishes between an attached and unattached
 21 fiber?
 22 MR. ALBERT: It doesn't pin it down real well.
 23 MR. BRANFMAN: Isn't Mr. Myers correct that
 24 unattached fiber can be left at the location and when
 25 needed and be attached to termination equipment?

1 Doesn't Verizon do that sometimes?
 2 MR. ALBERT: I mean he appears to be saying that
 3 that gets done in D.C. In most locations that I'm
 4 familiar with, that is not the standard practice. Most
 5 locations the standard construction practice is if you
 6 pull a 12- or a 24-fiber cable into a building, in the
 7 building on the customer prem end, we will put in the
 8 termination equipment for that at the time the cable is
 9 pulled in.
 10 What you sometimes won't have is not all of
 11 those fibers will be then spliced and connected and
 12 continuous all the way back to the central office.
 13 That may occur as growth of the fiber network happens
 14 over time.
 15 But to me he seems to be saying in here that the
 16 actual termination equipment on the customer prem is
 17 put in in stages, and I'm not really familiar with that
 18 being the standard practices in the places where I've
 19 worked where the termination is built with the full
 20 cable at the time it's run into the customer prem.
 21 MR. BRANFMAN: Well, what state is the partially
 22 constructed fiber in then?
 23 MR. ALBERT: I don't know. I'm having trouble
 24 following the overall configuration that he's talking
 25 about here.

1 question here if I can understand what's going on. I
 2 assume what the concern is that you said you haven't
 3 completed construction until you're connected to the
 4 termination point, and presumably if it's not connected
 5 to the termination point and you get a CLEC who wants
 6 dark fiber from you, you can say there's none available
 7 because there is none available without further
 8 construction, as you defined further construction.
 9 Now, do you ever have the situation where you
 10 install that dark fiber, let it sit there unconnected
 11 to the termination point, and then when Verizon wants
 12 to use it itself for retail customers, it simply does
 13 that connection? And so for Verizon, under those
 14 circumstances, it's available, it just needs the
 15 connection to be done; but for the CLEC, it's not
 16 available because the connection is not done.
 17 And so you have, arguably, and I'm not drawing
 18 any legal conclusions, discriminatory treatment between
 19 the two using the construction as simply the basis for
 20 saying it's available to us but not to the CLECs under
 21 the law? Does that ever arise? Is that possible under
 22 the way Verizon operates in Maine?
 23 MR. ALBERT: It's theoretical but it doesn't
 24 arise.
 25 COMMISSIONER DIAMOND: Why doesn't it arise,

1 MR. BRANFMAN: Well, leaving aside Mr. Myers,
 2 what's your understanding as to where -- as to what the
 3 status is of the partially constructed fiber in
 4 Verizon's network?
 5 MR. ALBERT: I think most typically is you're
 6 going to have loop fiber that we still need to extend
 7 further into the loop network, and you need to place
 8 additional fiber cables and you have to splice fiber
 9 groups together in order to do that construction.
 10 MR. BRANFMAN: Now, you've distinguished Mr.
 11 Myers' testimony as applying to D.C. and said that your
 12 experience is different.
 13 Do you have experience with the way Verizon
 14 constructs the fiber in Maine?
 15 MR. ALBERT: Some, yeah, from working with our
 16 outside plant loop engineers.
 17 MR. BRANFMAN: And what is the status of the
 18 unattached dark fiber in Maine?
 19 MR. ALBERT: That's where I was kind of
 20 surprised at this, because my experience is most places
 21 we've got it terminated on all the ends. I mean he
 22 seems to be describing something different here in
 23 D.C. that I don't think we generally and typically
 24 have.
 25 COMMISSIONER DIAMOND: Let me see if I can ask a

1 because you connect it? As soon as you lay it, you
 2 basically install it?
 3 MR. ALBERT: Yeah. I mean I think theoretically
 4 I understand what you're saying. It sounds like you're
 5 saying, Verizon, you're going to hide dark fiber
 6 because you're going to do everything possible to build
 7 it up until this very final last little step to plug it
 8 in at the customer prem, and you're only going to do
 9 that when you need it for yourself.
 10 COMMISSIONER DIAMOND: I mean how long does it
 11 generally take to do that last step of connecting into
 12 the termination point, if you can give me an average of
 13 that step?
 14 MR. ALBERT: A day to half a day, depending on
 15 the size of the cable. That's why I was saying when we
 16 put the portion of the cable into the customer prem,
 17 the termination in the customer prem, we'll fully build
 18 that out to the size of the cable; but that doesn't
 19 mean that all of those fibers at the customer prem are
 20 connected all the way back to the central office.
 21 Usually because it's a building entrance cable,
 22 we'll size that with a fair amount of growth, and then
 23 the rest of the fiber cables from the central office
 24 going out into the loop plant, those we will add to and
 25 construct and build over time.

1 So you'd have like a 24-fiber cable running into
 2 a building, and then when it came back to our main
 3 feeder route, it might only be spliced into, say, six
 4 fiber strands that actually went all the way back to
 5 the CO; and then the other 18 would have to be built
 6 out and connected over a long period of time.

7 COMMISSIONER DIAMOND: And you do that as you
 8 need it; is that the -- as you show the demand at
 9 Verizon?

10 MR. ALBERT: Yes.

11 COMMISSIONER DIAMOND: But to the extent you
 12 have cable sitting there that is all the way
 13 connected other than -- run all the way, other than
 14 connected at the ends, that conceivably would be
 15 available to Verizon but not to a CLEC?

16 MR. ALBERT: Theoretically -- I mean I read a
 17 little bit about this arbitration, and what I thought I
 18 had read was they were accusing us of building the
 19 whole thing totally end to end except for this --

20 COMMISSIONER DIAMOND: Well, I have no idea what
 21 happened in Washington, D.C., and I just as soon put it
 22 out of the picture and just ask you --

23 MR. ALBERT: But the theoretical of what we're
 24 being accused of, I've never seen that happen,
 25 basically because we do build that final last step when

1 we run the fiber cable into a building.

2 MS. DETCH: And if you took the theoretical that
 3 it was built and never terminated on either end until
 4 we got an order, when the order came in, it would be
 5 rejected because it would flow through, and the order
 6 system is fairly mechanized, and they wouldn't see the
 7 inventory, the mechanized part in charts, so it would
 8 show no fibers. Until the whole job is complete is the
 9 fiber then inventoried in records.

10 COMMISSIONER DIAMOND: And that's a retail order
 11 as well as an order from a CLEC?

12 MR. ALBERT: Yes.

13 MS. DETCH: Exactly. So when the retail order
 14 came in and the fiber wasn't connected on either end,
 15 it would show no fiber and the order would be
 16 rejected. Now, that's one example of partially
 17 constructed fiber.

18 Another example is when you're in the course of
 19 constructing the fiber route, and it happens in
 20 stages. You know, the first six months you may be
 21 constructing the fiber route from a central office to,
 22 say, a manhole. Then phase 2 is to construct from that
 23 manhole, you know, another however many feet we go, and
 24 phase 3 until you can splice all those ends and create
 25 a final end to end route of fiber.

1 That's another instance of fiber that wouldn't
 2 be available to Verizon or a CLEC until the entire
 3 route is constructed.

4 COMMISSIONER DIAMOND: Let me ask you two a
 5 related question. Let's say you get an order from a
 6 CLEC for dark fiber, and you're actually in the process
 7 of constructing and had previously-established plans of
 8 constructing it over the distance that the CLEC is
 9 seeking to access the dark fiber, but you're, say, two
 10 weeks away from completion.

11 What does a CLEC get by way of response? Does a
 12 CLEC get a response that says no fiber available or
 13 does a CLEC get a response saying, you know, we don't
 14 have it now but we will have it in two weeks?

15 MS. DETCH: It would say no fiber was available
 16 because, again, the planners are looking into the TIRKS
 17 inventory of the plats and what's available.

18 COMMISSIONER DIAMOND: Okay. So when that
 19 response goes back and in two weeks it's completed,
 20 there's no mechanism for getting back to the CLEC and
 21 saying we now have the fiber available that you had
 22 asked for?

23 MS. DETCH: Correct.

24 COMMISSIONER DIAMOND: You're going to tell me
 25 that's the same on your retail business as well?

1 MR. ALBERT: Yes.

2 COMMISSIONER DIAMOND: So you get a retail order
 3 from a potentially valued customer, and you're only two
 4 weeks away from -- which it does not have a rush aspect
 5 to it, and you're only two weeks away from having the
 6 infrastructure that you're able to supply that customer
 7 with, what that service the customer needs, your
 8 response to that customer is we can't do it?

9 MR. ALBERT: Well, when you say retail, maybe
 10 I'm making the wrong comparison. We don't do dark
 11 fiber so there's not a retail involved with it, all
 12 right, so that there's not an exact apples to apples
 13 comparison. When I said we did the same for retail,
 14 when an order would come through that would need
 15 capacity that that -- a new fiberoptic system would
 16 provide, we would not know what was there for that
 17 retail order, just as we wouldn't know if it was there
 18 for the dark fiber order.

19 EXAMINER BRAGDON: You wouldn't know what was
 20 under construction in your own network?

21 MR. ALBERT: Not for the assignment to the
 22 service order.

23 MR. BRANFMAN: Suppose --

24 MR. ALBERT: Because we only assign the service
 25 orders, the parts and the pieces that are fully usable.

1 MS. DETCH: Again, it's a mechanized order
2 form.

3 MR. BRANFMAN: Suppose a Verizon salesman is
4 about to make a big commission. He just heard, no,
5 sorry, we don't have the fiber. Isn't there somebody,
6 an outside plant engineer he can go to and say, can you
7 check on this for me, is there anything coming down the
8 pipeline because I'm about to make a big sale and I'm
9 losing it because there's no fiber? Is there some way
10 he can check to find out that this fiber is going to be
11 ready in two weeks?

12 MR. ALBERT: I mean our salespeople can always
13 call our engineers and check on status of what's going
14 on in the network.

15 MR. BRANFMAN: And the engineer would be able to
16 tell him that fiber is going to be ready in two weeks.

17 MR. ALBERT: Except you're drawing such a broad
18 hypothetical it doesn't really work that way. I mean
19 if a marketing salesperson had a capacity that they
20 wanted for some reason, if they knew it wasn't there,
21 they could call and talk to an outside plant engineer
22 about what types of jobs were going on; but still
23 there's not this direct correlation between maybe the
24 overall job and the particular services that would be
25 had.

1 even under the policies in New Hampshire, they -- you
2 wouldn't indicate back to them when the new route would
3 be completed? Like when we were looking at the CTC-22,
4 there was between Manchester and Candia a targeted
5 completion date of second quarter 2002.

6 MS. DETCH: In the cable documentation in New
7 Hampshire they did that, yes.

8 MR. BRANFMAN: And that's what the CLEC gets by
9 paying the additional \$130, correct?

10 MS. DETCH: I don't know if -- yes, yes.

11 MR. BRANFMAN: And it's not available in Maine,
12 correct?

13 MS. DETCH: Correct.

14 (A short break was taken.)

15 EXAMINER BRANFMAN: We're all set. Back on the
16 record.

17 MR. BRANFMAN: When engaging in environmental
18 planning for Verizon's build-out of additional fiber
19 capacity, does Verizon consider CLEC demand for dark
20 fiber?

21 MR. ALBERT: I mean I would say very broadly no,
22 and I'd say just because we don't get forecast for it.
23 But I think even if we did have a forecast for it, I'm
24 not quite sure how we would use it. You know, we don't
25 build and plan the network based on individual

1 I mean there's a communication that could occur
2 and an exchange of information, but that's still not
3 the same as the direct one-to-one match that you get as
4 you have a service order come flowing through the
5 system and it's there or it's not. I mean our people
6 certainly talk to each other.

7 MR. BRANFMAN: Can the CLEC have the same
8 communication and flow of information if it gets a
9 rejection, sorry, no fiber available?

10 MR. ALBERT: I guess I'd say I mean like with a
11 lot of CLECs, there are a lot of things that we work
12 through in interconnection agreement negotiations, that
13 there are a lot of things that are possible that, you
14 know, if you ask for it and we talk about it and you
15 describe more of the problem you've got, maybe there's
16 a way we can come up with a solution for it.

17 It's hard for me to say yes to your very broad
18 hypotheticals, but in interconnection agreement
19 negotiations, if you've got a particular problem, you
20 know, maybe what you think is the answer might not be
21 the one that we think is the answer, but we'll sure
22 work real hard to see if we can come up with some
23 answer that would work for the particular circumstances
24 in the situation that you've got.

25 EXAMINER BRAGDON: And am I understanding that

1 subclasses of customers. We build the network in an
2 aggregate to serve everybody, you know, INCs, CLECs,
3 wireless, our own end users.

4 So when you ask a question so narrow as, you
5 know, is there a piece or a hunk of it that you build
6 that you can relate to a particular subclass of
7 customers, that's really almost impossible for me to
8 answer. When we build and size fiber cables, you know,
9 it's mainly basically all aggregate needs on what our
10 past history has been.

11 MR. BRANFMAN: But you'll take into account the
12 past history of orders for T-1s, for example?

13 MR. ALBERT: When an engineer sizes a fiberoptic
14 cable, they'll basically look back historically at how
15 fast the fibers have gone, and they'll use that
16 as -- as one of many judgmental inputs that they lump
17 together in a big bag, shake it all up and then get a
18 final answer out of. So trying to go back and say how
19 much of that answer is attributable to an individual
20 particular factor is next to impossible.

21 MR. BRANFMAN: So they would consider the 75
22 percent of dark fiber requests that got rejected as one
23 of the factors in Maine in planning out the
24 build-outs?

25 MR. ALBERT: Not inquiries. An engineer will

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1 look at how fast the actual fibers have been used up.
 2 And you've got -- you're really oversimplifying an
 3 extremely complex network engineering and planning
 4 arrangement where, when we build interoffice facility
 5 capacity, we build that overall capacity for many,
 6 many, many different services; and when you are just
 7 sizing an individual component, a piece of that
 8 capacity like a link, a fiber cable between a pair of
 9 central offices, there is no singular direct forecast
 10 that you get, have or develop that comes back and
 11 relates to that component that you actually build to.

12 So as a result, there's an awful lot of
 13 engineering judgment heavily tempered by past history
 14 that's used to make the sizing decisions, but those
 15 sizing decisions you really can't say one way or the
 16 other if it's a -- about the individual piece parts.

17 MR. BRANFMAN: As reflected by the map of
 18 Manchester to Dover, there are a number of links in the
 19 network that do not have additional capacity, correct?

20 MR. ALBERT: On this diagram there were quite a
 21 few that were X'd out.

22 MR. BRANFMAN: Right. And that would be true in
 23 Maine as well, correct; there would be some number that
 24 are X'd out and therefore don't have additional
 25 capacity?

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1 MR. ALBERT: Yeah, I'd say in general, if you're
 2 talking about the interoffice facility portion of the
 3 network, the fiber cables between central offices, in
 4 Maine that is legitimately a scarce resource. If you
 5 want a ballpark to put it in perspective, out of all of
 6 the interoffice facility spans that we've got in Maine,
 7 when I say interoffice facility span, that's a straight
 8 shot from one central office to another central office,
 9 fiber cable between it, 50 percent of our interoffice
 10 facilities being spanned in Maine have got four or
 11 fewer spare fibers. That is quite typical of a number
 12 of our other states.

13 So when I say IOF dark fiber is a scarce
 14 resource, that's a number behind it and that's Maine's
 15 particular number, and Maine doesn't look a whole lot
 16 different than other states in that regard.

17 MR. BRANFMAN: Now, in fact, wasn't the --
 18 okay. Of the 50 percent that don't have any
 19 significant amount of spare fiber, how many of those
 20 are going to be relieved, say, in the next year, 2002,
 21 by providing additional fiber capacity?

22 MR. ALBERT: I don't know.

23 MR. BRANFMAN: Can you even ballpark?

24 MR. ALBERT: No. And that's because in the
 25 building and adding capacity to the interoffice

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1 facility network, there are several alternatives that
 2 we have. One is using the electronics with greater
 3 capacity, the other is adding fiberoptic cables. We do
 4 a mixture of both of those, and the snapshot here for
 5 the next year, I can't tell you.

6 MR. BRANFMAN: So you have no idea whether all
 7 50 percent would still be a problem this time next year
 8 or they'll all be resolved by this time next year?

9 MR. ALBERT: I can tell you that 50 percent
 10 number has historically been in that ballpark for at
 11 least the last three or four years that I've been
 12 familiar with the statistics and looking at it.

13 MR. BRANFMAN: But there's been some turn. Some
 14 of them move off the list and then others move on at
 15 the same time to replace them, correct?

16 MR. ALBERT: That's correct.

17 MR. BRANFMAN: I'm just looking at the ones that
 18 are on the list now, how many of them are likely to
 19 move off the list.

20 MR. ALBERT: That's where I said I don't know.

21 MR. BRANFMAN: Okay. Thank you. I have no
 22 further questions.

23 EXAMINER BRAGDON: Okay. Actually, Mr. Cowie
 24 has a question.

25 MR. COWIE: Yeah. I've been listening

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1 upstairs. I'm Douglas Cowie on the technical staff. I
 2 just heard you say that in Maine that -- well, you said
 3 something about most interoffice routes have fewer than
 4 four fibers for spare. Was that correct?

5 MR. ALBERT: I said in the interoffice network
 6 in Maine, if you take all the interoffice facility
 7 spans that we have, there are 50 percent of them that
 8 have got four spare fibers or fewer.

9 MR. COWIE: Fewer.

10 MR. ALBERT: And when I say spare fibers, those
 11 are fibers that would be available for assignment for
 12 orders, either for dark fiber or for Verizon. That
 13 does not count the maintenance spares that we have and
 14 that we leave available for emergency restoration.

15 MR. COWIE: Now, you need four fibers for any
 16 interoffice link, don't you? You need a primary pair
 17 and a backup pair?

18 MR. ALBERT: Yeah, you need four fibers for a
 19 fiberoptic system. If you build the system in a SONET
 20 ring configuration, then in a particular interoffice
 21 span, that ring would only be using that two fibers
 22 because it would use two fibers going to the east and
 23 it would use two fibers going to the west.

24 MR. COWIE: So fewer than four fibers can do you
 25 some good then?

1 MR. ALBERT: Yes.
 2 MR. COWIE: I was wondering what you can do with
 3 less than four fibers.
 4 MR. ALBERT: With four fibers, you could turn up
 5 two SONET rings on four fibers.
 6 MR. COWIE: Thanks.
 7 EXAMINER BRAGDON: CLEC Coalition?
 8 MR. WINCHESTER: I think I heard you say that
 9 when you were being asked questions about turning up
 10 new systems and having existing systems in place, it
 11 sounded like you said that your capital improvements
 12 that you make in terms of electronic upgrades in your
 13 network, new transport, dense wave, whatever the case
 14 may be, that you don't realize or utilize those
 15 operational efficiencies by moving existing either less
 16 than full OC-48 or OC-12 networks off of those fibers
 17 and onto a system like a dense wave that could handle,
 18 say, an OC-192: is that correct?
 19 MR. ALBERT: Let me get more precise because we
 20 keep talking in real broad generalities. We'll narrow
 21 it down a little bit. With the dense-wave division
 22 multiplexing that we have just started to put in last
 23 year, we will take some quantity of existing OC-48s and
 24 direct those onto a dense-wave division multiplexing
 25 system. That doesn't knock them out of service. That

1 OC-12?
 2 MR. ALBERT: Two reasons. What you'll wind up
 3 with is on some of our fibers, and actually there are a
 4 good number of them, on some of our fiber cables, we
 5 can't run OC-48s across them. The transmission loss
 6 and the speed that we can get won't support the OC-48s,
 7 so we can get numbers from OC-12s because of that
 8 condition.
 9 The other reason is just the potential service
 10 disruptions associated with and cost associated with
 11 doing the network rearrangements, swap the electronics
 12 out. When you look at the vast number of individual
 13 circuits that you're collecting together to ride then
 14 on that high capacity basket, the cost of the potential
 15 disruptions associated with those types of
 16 rearrangements are significant. We try to avoid those
 17 as much as we can.
 18 MR. WINCHESTER: But you're talking about a
 19 one-time cost to do the aggregations, and then you're
 20 done with them, correct?
 21 MR. ALBERT: You're talking about many, many,
 22 many one-time costs.
 23 MR. WINCHESTER: But the operational
 24 efficiencies of only having to maintain one system
 25 versus three or four individuals between two points

1 kind of clumps them together.
 2 MR. WINCHESTER: I thought I heard you say
 3 something that kind of said when they're running and
 4 they're running, you don't touch them; you leave them
 5 alone?
 6 MR. ALBERT: I did. And if you're talking OC-3s
 7 and OC-12s: ripping those out, doing all the network
 8 rearrangements that you have to do around them and
 9 behind them and then redirecting those to a higher
 10 order system, that's the rare to infrequent to never.
 11 We try to avoid it like the plague because of the
 12 service impacts and also because of the costs.
 13 When you have like a single OC-12 system, you'd
 14 have 8,000 individual circuits, all of which you'd have
 15 to touch and do something to and notify customers
 16 about, and that's why that gets so God awful expensive
 17 as opposed to building new.
 18 MR. WINCHESTER: And in CTC's exhibit, and I
 19 think it's the third-to-the-last page, in the network
 20 between Manchester and Raymond, why would you run two
 21 parallel OC-12 systems versus having -- upgrading those
 22 to an OC-48 so that you're not using either a quarter
 23 of an OC-48's capacity to tie up four fibers? Why is
 24 that kind of utilization taking place between an office
 25 that also has an OC-48 running between it and another

1 should be realized by just being able to aggregate
 2 traffic onto a single system where possible.
 3 MR. ALBERT: That's -- those are all service and
 4 cost trade-offs, you know; that you have to make the
 5 engineering decisions of how to provide the capacity.
 6 MR. WINCHESTER: In an earlier question I think
 7 you had indicated that you use light readings to
 8 determine whether or not the fibers are tested properly
 9 and can be turned over to CLECs. I think you used the
 10 Hyannis to Massachusetts example, the Boston,
 11 Massachusetts example where you said it was too long
 12 for your equipment to put light across there; hence,
 13 you have no idea whether or not that facility would be
 14 any good to the CLEC. Is that an accurate statement?
 15 MS. DETCH: That would be an example where you
 16 wouldn't be able to test from end to end. You'd have
 17 to do multi-point tests.
 18 MR. WINCHESTER: And you would do those
 19 multi-point tests to do a shorter haul as to test each
 20 segment of that network to turn them over to the CLEC.
 21 if you could test the individual segments that tested
 22 properly?
 23 MS. DETCH: In the cases where this has
 24 happened, we have had to do it because it's the only
 25 means in which to get any type of light reading.

1 EXAMINER BRAGDON: Can you speak up a little,
2 please?

3 MS. DETCH: Sure. I was saying in the cases
4 that we've had this happen, we've had to do it that way
5 because it's the only way in which we could get any
6 type of light reading. We would not be able to get
7 from A to Z.

8 MR. WINCHESTER: I just wanted to be clear. If
9 you're using short-range electronics to do those tests
10 and a CLEC is sure or a CLEC is using long-range
11 electronics optics to run its network and it's sure
12 that it will run over an 80-mile span and your
13 electronics only run over a 40-mile span, you'll test
14 that 80-mile segment in two segments to let the CLEC to
15 know whether or not that tested properly and you can
16 turn that over to them, or you tell them you can't run
17 those tests, that the fiber is no good?

18 MS. DETCH: We would go to shorter spans.

19 MR. WINCHESTER: You would. Okay. The
20 discussion on the installation of cables specifically
21 between central offices, an interoffice facility, dark
22 fiber, that is, when you install cables between
23 offices, and I think this gets to the question that you
24 guys were talking about whether or not you
25 actually -- you bring these facilities all to a common

1 MR. WINCHESTER: Okay.

2 MR. ALBERT: So if we brought in a 144-strand
3 cable, we would put all 144 strands on the fiber
4 distribution frames.

5 Now, until the far ends of those strands also
6 get terminated, which, if they're in the loop plant,
7 they could be over a number of years that they're
8 progressively getting built out, but they won't go into
9 the inventory until there's a far end termination so
10 that you can actually use it between two points.

11 MR. WINCHESTER: So if you did an augment
12 between two points, Lewiston and Portland as an
13 example, where you're doing an interoffice facility
14 because you're at a point where you have less than four
15 fibers available and you have a lot of requests for
16 dark fiber between that run, and you pulled 48 fibers
17 as an example between those two points, would you bring
18 in all 48 fibers on each end and terminate those so
19 that they would be available in your inventory for a
20 CLEC to order from?

21 MR. ALBERT: For IOF, yes.

22 MR. WINCHESTER: You would?

23 MR. ALBERT: Yeah. I mean the construction
24 cycle and process for building interoffice facility
25 fibers is much different than for the loop plant. The

1 point and you terminate some but don't terminate
2 others.

3 Do those nonterminated fibers, even though
4 they're in a similar termination point just not having
5 a physical termination or a hard termination, counted
6 in your inventory or are those not counted in your
7 inventory when somebody makes a dark fiber request
8 between, say, Portland and Lewiston as an example?

9 MR. ALBERT: If there is not a termination on
10 both ends, they're not in the inventory for ourselves
11 or for CLECs.

12 MR. WINCHESTER: Even though they may be there
13 available and they may physically be between two
14 points, they're just not physically terminated on a
15 hard termination, you don't show those in available
16 fibers?

17 MR. ALBERT: Well, now that's a theoretical we
18 wouldn't have exist.

19 MR. WINCHESTER: So you would, if you brought 48
20 fibers in to a particular office between point A and
21 point B, you'd terminate all 48 so that they would be
22 seen and visible in your inventory?

23 MR. ALBERT: No, they wouldn't necessarily be in
24 the inventory. When we run a fiberoptic cable into the
25 central office, we'll terminate all of those fibers.

1 loop plant will get built in chunks and hunks and
2 stages over a much longer period of years than what we
3 take to build new interoffice facilities.

4 MR. WINCHESTER: So essentially an interoffice
5 facility dark fiber is much cleaner because it's
6 between two points, and typically all of those fibers
7 would be terminated on both ends and available if they
8 were there?

9 MR. ALBERT: That's correct.

10 MR. WINCHESTER: Okay. Now, the last question I
11 have relates to the language used in Maine dark fiber
12 agreements. Is it your understanding that the dark
13 fiber language in Maine contained in the majority of
14 the interconnection agreements for dark fiber have a
15 clause in them that indicates that Verizon can, when
16 its own facilities are exhaust, reclaim dark fibers
17 from CLECs who were using those if they need them for
18 their own network purposes, meaning they don't have any
19 more facilities and they need dark fiber for their
20 purposes, that they can reclaim dark fibers being used
21 by CLECs?

22 MS. DETCH: There is a clause in the
23 interconnection agreement, really a reservation of
24 right. If for some reason such a situation incurred,
25 and it's probably a, in an extreme situation, a carrier

1 of last resort obligation, we would send the CLEC
2 notice and go forth in front of the Commission, and
3 only if the Commission approved it would we be able to
4 do that.

5 MR. WINCHESTER: Okay. Does it say -- does it
6 outline that process in the interconnection agreement
7 for the language that's associated with that particular
8 piece?

9 MS. DETCH: I don't know if it outlines the
10 process. I think the language has language that the
11 CLEC would be notified and the Commission would be
12 notified and --

13 MR. WINCHESTER: So, in essence --

14 MS. DETCH: It's really discussing the
15 reservation of right. It doesn't get into detail on
16 what the process is.

17 MR. WINCHESTER: Okay. And in essence then, if
18 there were dark fibers assigned to CLECs for their own
19 use and Verizon's -- Verizon came to facilities
20 exhaust, it could, instead of engaging in the expense
21 of building new facilities, just reclaim existing
22 facilities used by CLECs to support its own network
23 based on that language?

24 MS. DETCH: It's reserving the right to do that,
25 yes.

1 MR. WINCHESTER: Okay. I have no further
2 questions.

3 MS. ROBIDEAU: We're going to finish Section --
4 our checklist 5, right?

5 EXAMINER BRAGDON: Right.

6 MS. ROBIDEAU: Which may take us into some other
7 products and services?

8 EXAMINER BRAGDON: Right.

9 MS. ROBIDEAU: I'm going to just, on dark fiber,
10 does Verizon have a standard, if you will, where let's
11 say a 48-strand or 96- or -- strand of cable, let's
12 say, in a 96-strand, do you have a standard of how many
13 reserve -- how many spares are reserved or are
14 maintenance spares that you reserve, I guess?

15 MR. ALBERT: What I talked about earlier, and it
16 is in some of our interrogatory answers, is we have a
17 matrix that we use based on cable size for IOF cables,
18 that based on the number of strands, spells out the
19 maintenance spares that we use; and then for the loop
20 fiberoptic cables, the approach is for each terminated
21 location, and in the loop network, we have four
22 maintenance spares for each of those.

23 Yeah, it's interrogatory answer CTC-1-69 details
24 it out.

25 MS. ROBIDEAU: Okay.

1 MR. ALBERT: And the maintenance fibers for the
2 interoffice network, when you get over 144, we max out
3 at 12 maintenance spares.

4 MS. ROBIDEAU: 12.

5 MR. ALBERT: So it's a sliding scale beginning
6 with 4 on the low end and 12 at the high end for the
7 144 for the IOF.

8 MR. WINCHESTER: And now is the time to ask any
9 questions we may have on other subjects?

10 EXAMINER BRAGDON: Right, on 5.

11 MR. WINCHESTER: You've probably been waiting
12 for this question for a while. Can you explain how a
13 CLEC would initiate a special access to UNE conversion
14 and how that conversion might take place?

15 MS. FOX: Well, on our website we have
16 guidelines for converting special access services to
17 EELs, and we use that same process to convert special
18 access services to UNE loops and to UNE IOF or
19 unbundled transport; and on the website where the
20 guidelines are posted, we also have a circuit data
21 templet, and in order to do a conversion, we ask you
22 that you populate that circuit data template, forward
23 it to your account manager who then forwards it to my
24 group.

25 MR. WINCHESTER: So for every special access to

1 UNE conversion, you've got to send the information to
2 your account manager who I'm assuming will be familiar
3 with the process and know, 1, how to fill out the
4 paperwork and, 2, where to send it?

5 MS. FOX: Well, there is no paperwork. The CLEC
6 needs to complete the circuit data.

7 MR. WINCHESTER: Yeah.

8 MS. FOX: You need to populate the fields that
9 we've provided with the circuits you want to convert.
10 You send that to your account manager via e-mail, and
11 if we're talking about unbundled loops and unbundled
12 transport, there are no additional requirements except,
13 of course, to have a current interconnection
14 agreement.

15 So you would forward that e-mail with the
16 completed file attached to your account manager or you
17 can forward it to me as well at Verizon, and we put
18 that in the Q. We assign it an effective date and it
19 gets set for processing.

20 MR. WINCHESTER: Does the website specify the
21 difference between doing an EEL's conversion and a
22 local loop conversion or is it just talk about EELs and
23 by inference, you're supposed to know that that also
24 deals with local rules?

25 MS. FOX: The guidelines themselves discuss

1 EELS. Within our CLEC handbook in the unbundled loop
2 section and in the unbundled transport section, we have
3 a brief paragraph in each that directs CLECs who wish
4 to do a conversion to populate the circuit data
5 template and to forward it to your account manager.

6 MR. WINCHESTER: And this is a process that's
7 been established for how long, the special access to
8 LNE, not specifically EELS but special access to LNE?

9 MS. FOX: Well, the process that we had posted
10 on the website was effective February 17, 2000 which is
11 coincident with the effective date of the LNE remand.

12 MR. WINCHESTER: And when was notification
13 placed to, say, account managers and other people
14 within Verizon that the process for converting special
15 access to LNEs was to use the same EELS process, when
16 was that circulated?

17 MS. FOX: That circulation occurred on a
18 case-by-case basis as account managers called to
19 question how we were effecting conversions.

20 MR. WINCHESTER: So if -- if a CLEC had searched
21 the handbook and hadn't found anything relative to that
22 or hadn't asked the question, they wouldn't know that
23 this particular process had taken place because there's
24 no proactive either industry letter or paperwork sent
25 to the CLECs explaining the process?

1 MS. FOX: Right.
2 MR. WINCHESTER: And if you didn't have
3 facilities available, then it's, in my case, it's fair
4 to say or fair to state that we probably have had now a
5 special access circuit, a couple of them on our network
6 for extended periods of time without knowing the
7 process for converting those. Even though we had gone
8 to our account manager about how do we do this, where
9 are facilities going.

10 MS. FOX: Well, you know, there were
11 representatives by the company at CLEC workshops that I
12 presented in December of 2000, and that person was
13 familiar -- learned through that workshop that there
14 was a way you could do your conversions.

15 MR. WINCHESTER: EEL conversions but not special
16 access to LNEs?

17 MS. FOX: No, because it wasn't -- it didn't
18 really become a topic --

19 MR. WINCHESTER: Okay.

20 MS. FOX: -- until, I don't know, maybe the
21 summer.

22 MR. WINCHESTER: And that's the point being
23 that, again, with local loops and special access to
24 LNEs, that wasn't in your December topic, your December
25 meeting, widely discussed. That wasn't -- you talked

1 MS. FOX: There was no proactive letter sent to
2 CLECs to discuss conversions of special access to LNE
3 loops and LNE transport because for those items have
4 been available as unbundled network elements. EELS
5 was -- were something that came about as a result of
6 the LNE remand effective in the year 2000.

7 MR. WINCHESTER: Is it fair to say then that
8 account management should have known that this
9 particular process existed as long ago as February of
10 2000?

11 MS. FOX: Account management should have been
12 aware that we had a conversion process to convert
13 special access services to EELS.

14 MR. WINCHESTER: Now, what about the special
15 access to LNEs, when would they have known that they
16 were supposed to use or CLECs were supposed to use the
17 same process for special access to EELS?

18 MS. FOX: If they called me on the phone. A
19 CLEC could, however, have, as you had been doing, you
20 could for small numbers of circuits requested -- you
21 could have done a disconnect/reconnect scenario which
22 is what you would be doing. I mean you could always
23 have done that for small numbers of circuits.

24 MR. WINCHESTER: Where facilities were
25 available?

1 about special access to EELS but not special access to
2 LNEs?

3 MS. FOX: That's correct.

4 MR. WINCHESTER: Okay. I have no further
5 questions.

6 MS. ROBIDEAU: It's true in the special access
7 to EEL process that you're talking about that we need
8 to use, to convert special access to LNE, we would use
9 that EEL process with the exception of the
10 certification part?

11 MS. FOX: Yes.

12 MS. ROBIDEAU: Is that correct?

13 MS. FOX: Yes, that's correct.

14 MS. ROBIDEAU: And the only way that a CLEC can
15 provision an EEL if you will, is through the
16 conversion from special access to EEL?

17 MS. FOX: In Maine --

18 MS. ROBIDEAU: In Maine.

19 MS. FOX: -- that's correct, yes.

20 MS. ROBIDEAU: There are no new EELS being
21 provisioned by Verizon for the State of Maine,
22 correct?

23 MS. FOX: That's correct.

24 MS. ROBIDEAU: Do -- do you have any idea when
25 or if Verizon is going to be allowing provisioning of

1 EELS in the State of Maine?
 2 MS. FOX: Well, the 8th Circuit Court ruling
 3 issued in July 2000, made it clear that we have no
 4 legal obligation to provide new EELS.
 5 EXAMINER BRAGDON: Are you providing new EELS in
 6 any other state?
 7 MS. FOX: Yes, we are providing new EELS in
 8 other states.
 9 EXAMINER BRAGDON: Which states?
 10 MS. FOX: It's actually easier to tell you which
 11 states we're not providing new EELS.
 12 EXAMINER BRAGDON: Okay. We'll take a short
 13 list.
 14 MS. FOX: Maine, Delaware, D.C., Maryland,
 15 Virginia and West Virginia.
 16 EXAMINER BRAGDON: And why is that the case?
 17 MS. FOX: In states where we're providing EELS,
 18 generally it's because of the activities that occurred
 19 prior to the release of the 8th Circuit Court ruling.
 20 For example, in Massachusetts, it was due to an
 21 arbitration decision that occurred before that ruling,
 22 and in New Hampshire which is a state where we
 23 have -- we don't have a legal obligation to provide new
 24 EELS which was -- that was -- that was decided in and
 25 that person left.

1 questioned by Commissioner Diamond with regard to a
 2 couple of statements in CT -- in CTC Exhibit No. 15 as
 3 to whether Verizon was agreeable to the applicability
 4 of those statements, 8A and 8C, to CLECs in Maine, and
 5 I believe in your response, you indicate that Verizon
 6 was agreeable to these terms being in the
 7 interconnection agreements of CLECs, recognizing that
 8 we do not have an SGAT of general applicability in the
 9 State of Maine.
 10 Now, at the present time, Mid-Maine
 11 Communications, for example, let's assume, does not
 12 have this language in its interconnection agreement.
 13 Does that mean that these statements do not govern with
 14 regard to the relationship between Verizon and
 15 Mid-Maine Communications at this time?
 16 MR. ALBERT: Well, let me ask my -- our lawyers
 17 on that in terms of -- I mean you're saying these types
 18 of phrases aren't in --
 19 MR. DONAHUE: In the agreement at this time.
 20 And are you -- are you basically saying that we have to
 21 amend the agreement to get this language into the
 22 agreements before this will be operative, vis-a-vis
 23 Verizon and CLECs in the State of Maine?
 24 MR. CLEMONS: I think that's correct.
 25 COMMISSIONER DIAMOND: Well, I had a very

1 Now, recently I believe your recommended
 2 decision in the TELRIC proceeding agreed with the 8th
 3 Circuit Court ruling or at least acknowledged it that
 4 we don't have the obligation to provide new EELS. So
 5 the situation is a little bit different in every
 6 state.
 7 EXAMINER BRAGDON: Not having my examiner's
 8 report in front of me, I will -- I don't know if that's
 9 an exact characterization. I know that there was a
 10 discussion in there and I know that the recommendation
 11 was at this time there was specific new EELS needed to
 12 be provided, but I think we left the door open.
 13 But -- okay. So basically the answer is you've been
 14 ordered in other jurisdictions?
 15 MS. FOX: Yes, but generally not in connection
 16 with the 271 proceeding, through other means, through
 17 other proceedings, because at this point in time we're
 18 in compliance with the 271 checklist because we do
 19 provide EELS in accordance with applicable law, which
 20 is that we can't separate anything after being
 21 combined; therefore, we allow you to convert your
 22 special access services to EEL.
 23 EXAMINER BRAGDON: Are you --
 24 MR. DONAHUE: I had a couple questions for Mr.
 25 Albert. Mr. Albert, when -- a short while ago you were

1 similar question I was going to ask which is that would
 2 you have any objection to our representing in what we
 3 submit to the FCC in the context of this proceeding
 4 that you have indicated that you would follow both of
 5 those practices set forth in 8A, and 8C, I guess, with
 6 repairing dark fiber and dealing with degraded fiber
 7 and indicating that that is a condition, our
 8 understanding that you would honor those practices in
 9 Maine, and indicating that that is a condition
 10 of -- assuming that we reached the judgment, that we're
 11 able to endorse the application, but that's a condition
 12 of our doing so?
 13 MR. ALBERT: I mean I don't know if it's bit
 14 more of a legalistic answer. I mean I'm -- what I'm
 15 saying is we are willing to do these in Maine.
 16 Actually, it would be hard for us to not do these.
 17 COMMISSIONER DIAMOND: Well, I appreciate that.
 18 I think we're only trying to do is -- I think we're
 19 only trying to -- we're trying to do it in a way not
 20 because there's any personal distrust here but simply
 21 because it avoids any future sort of contention or
 22 litigation. We're trying to do it in a way so that we
 23 nail down what gets agreed to, I guess, is
 24 really -- and if it's not agreed to in the fashion we
 25 can nail it down, then I think we have to assume we

1 don't have any guarantee it would be done.
 2 And, you know, in the interest of kind of moving
 3 this thing along in that context, I guess we're trying
 4 to establish those things, that Verizon says, yes, you
 5 can represent that this is something we agree to do in
 6 Maine, and, you know, we have no problem with you
 7 saying, you know, whatever, that if you have a positive
 8 position on our 271 application, that it's conditioned
 9 upon Verizon honoring that agreement.

10 Now, if you -- if you are not comfortable
 11 answering that question, you can say that, but at some
 12 point I think that question ought to be answered just
 13 so that we know the status of the things that you're
 14 indicating you're prepared to do.

15 MR. ALBERT: Yeah. I guess myself personally, I
 16 would kind of duck that and go back to our legal and
 17 regulatory people in terms of how we would answer.

18 MR. BOECKE: If in the hypothetical that is the
 19 con -- the condition the Commission wants, I'd want to
 20 take back what's the appropriate way to do that in
 21 Maine, given that we don't have a tariff for wholesale
 22 services and we don't have an SGAT. It may require
 23 sort of a blanket amendment to every single contract or
 24 it may somehow be able to be implemented as some sort
 25 of memorandum, understanding that I'd want it to be

1 memorialized in such a way so that in practice, it
 2 would be honored. And that, to me, says that without
 3 an SGAT or a tariff, it should be in the contract, but
 4 I don't know if that's an absolute necessity to go back
 5 in and amend all those contracts.

6 MR. CLEMONS: Or to give those CLECs an
 7 opportunity via a communication that if they would like
 8 such an amendment, that they can have such an amendment
 9 and incorporate it into their agreements.

10 COMMISSIONER DIAMOND: Well, I want to ask, and
 11 maybe it's not an issue we should try to resolve right
 12 at the moment what the form would be, but I do think
 13 that we need some mechanism, having assurance that any
 14 representations that certain practices will be followed
 15 in Maine is really -- is really binding and that
 16 whatever implementation steps need to be taken are
 17 either taken at the time this is all done or so clearly
 18 laid out that we all know what they're going to be.

19 Again, I think we have a very uncertain backdrop
 20 against which for us to make a judgment on the
 21 Commission, and I'm not comfortable assuming certain
 22 things that -- that are not clearly nailed down as
 23 being agreed to.

24 So does that help, Joe, in terms of --

25 MR. DONAHUE: Yes, it does. That, I guess, we

1 need to flush this out more, but when this proceeding
 2 is over with, I guess I'd like to know what -- what
 3 representations made by Verizon in this proceeding, if
 4 I want to make them stick, I'd have to get an amendment
 5 to an agreement or maybe some other means to make them
 6 stick.

7 And along those same lines, and the reason I'm
 8 asking this question, I recall that when Mr. Branfman
 9 was asking his question regarding the hypothetical of
 10 the construction of fiberoptic cable between two
 11 central offices that was not quite completed and
 12 wouldn't be completed for a couple more weeks and
 13 therefore hypothetically a CLEC received rejection of
 14 its order for a dark fiber between those two COs, but
 15 under those same circumstances, a Verizon salesperson
 16 might have been able to use their familiarity with
 17 Verizon to find out, well, although there's no fiber
 18 available now on a retail -- for a retail customer,
 19 might there be something soon.

20 I think Mr. -- Mr. Albert, you indicated that
 21 in response to that question, that if a similar -- an
 22 analogous circumstance arose with regard to a CLEC,
 23 you -- you'd be able to -- you'd work with them to
 24 sort of work out the problem and find a -- find a way
 25 to deal with it, indicating, I think, you know, a

1 reasonable indicia of flexibility and cooperativeness
 2 with regard to the CLEC, rather than simply saying to
 3 the CLEC, well, you know, you've got to go back and
 4 start the process over and file another order with
 5 Verizon two weeks later to find out if there's cable
 6 there.

7 But when you made that statement, I believe the
 8 record will show you said, under the interconnection
 9 agreement we would do that, and that caused me, again,
 10 to have the same question -- I don't know if it's a
 11 question to you or to your counsel or something to be
 12 thought about in this proceeding -- does that mean that
 13 that indication of flexibility and willing -- and
 14 willingness to work out problems is contingent upon
 15 there being a provision in the interconnection
 16 agreement that that will be part of the arrangement
 17 between the CLEC and Verizon or whether that -- that
 18 was the general representation of Verizon's policy and
 19 practice with regard to CLECs that will persist in the
 20 state, regardless of the language and whether or not
 21 it's explicitly stated in an interconnection
 22 agreement.

23 So let me ask you -- put that in the form of a
 24 question. When you -- when you prefaced that statement
 25 with under the interconnection agreement, were you

1 meaning to indicate that there would have to be
2 language in the interconnect -- interconnection
3 agreement saying that we will try to work out these
4 kind of problems with you in order for Verizon to feel
5 that it has an obligation to try to work out those kind
6 of problems with CLECs?

7 MR. ALBERT: Is that a you answer or me answer?
8 She's the product person and I'm the big-mouth
9 engineer. What I was getting at is I just assumed
10 that, you know, in the interconnection agreement is
11 where we spelled out any of these particulars that
12 would eventually get developed and get worked out
13 between the parties.

14 MS. DETCH: Right now --

15 MR. ALBERT: I mean if you're asking I mean are
16 we willing to, you know, do one-of-a-kind stuff based
17 on CLEC requests without having something in the
18 interconnection agreement saying that we're willing to
19 do one-time stuff based on -- I mean I think from our
20 track record and the way we operate and what we do, we
21 do a lot of one-of-a-kind things with CLECs; and we try
22 to work with them and we do that without precise words
23 in the interconnection agreements saying that.

24 I mean if you called me up tomorrow and said,
25 hey, Albert, you know, when is your job between

1 Portland and Augusta going to be done, then I'd find
2 some answer for you. Now, if you called me up 40 times
3 every day asking me that, then I'd probably say, well,
4 this is costing something. We now have to figure out
5 how to put it in the interconnection agreement and how
6 to -- how to deal with it, but -- did you have a
7 different answer?

8 MS. DETCH: Generally the forum in Maine today
9 is to negotiate an interconnection agreement, and it's
10 typically at that time that the parties can negotiate
11 the Ts and Cs. Some of it is merely a matter of
12 understanding the process once we have some dialogue
13 going and negotiation. Some of it is does it require a
14 change to the interconnection agreement template. So
15 that's really the format as to how something like that
16 would be evaluated.

17 MR. DONAHUE: Well, I gather from what you are
18 saying, that if I liked what I heard Mr. Albert say and
19 I'd like it to be -- to govern the relationship between
20 CLECs, the CLECs I represent and Verizon, I ought -- I
21 ought to get a copy of the transcript and get that
22 written into an amendment to the interconnection
23 agreements or get a Commission order to that effect or
24 an SGAT approved in the State of Maine which contains
25 that kind of language?

1 MR. ALBERT: Yeah. And I guess what I was
2 getting at is, you know, if there are unique particular
3 information needs that you've got, you know, you work
4 with us to identify what those are, we'll try and work
5 with you to see if there's a way to deal with them and
6 solve them.

7 MR. DONAHUE: I think my clients would indicate
8 they have seen indications of that approach from
9 Verizon, but they've also seen it's a mixed bag in that
10 regard, and this is a concern and I think leads us to
11 the rapid response process and we've come full circle
12 today.

13 MR. CLEMONS: I'd just like to kind of respond
14 briefly to that because that was kind of a question
15 that was part to counsel and part to the witness.

16 I think, as we heard from the witness, that
17 Verizon is very receptive to working with CLECs in
18 Maine to solve problems to the extent that we can. At
19 the same time we work in a regulatory environment that
20 limits the extent to which we can do that, so in the
21 daily course of dealings, someone calls up, they have a
22 problem, we try to be responsive; we try to address
23 it.

24 At the same time we have to walk that fine line
25 of discrimination which, if we stray off that line in a

1 particular area, we know that we will be called to the
2 carpet. So that does really constrain the company's
3 ability to just make every accommodation that a CLEC
4 would like, and so I'm sure you've heard from a number
5 of the witnesses today a recourse to -- well, but
6 that's what the law requires.

7 And so, yes, we have an obligation to follow the
8 law, but what we can represent is that we will continue
9 to work with Mid-Maine and the other carriers as we
10 have in a cooperative fashion. I'm not sure that this
11 particular issue is the type of thing we should expect
12 to be memorialized as a guarantee, other than to say
13 that we're not -- we're not trying to deprive people of
14 dark fiber. And if there's something like that that
15 comes up and we know something is in the pipeline and
16 we have working relationships with the CLECs in Maine
17 and we communicate on a regular basis, then that will
18 get communicated.

19 EXAMINER BRAGDON: Well, let me ask the
20 question. If this Commission were to condition its 271
21 approval on the adoption of the guidelines in New
22 Hampshire relating to documentation when a CLEC submits
23 a dark fiber order, does that take care of the concern
24 that was the genesis for your question?

25 MR. DONAHUE: Well, it takes care of the

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1 specific issue, but it doesn't take care of the genesis
2 for the question which is in terms of having assurance
3 that we will have in the long run a good working
4 relationship between Verizon and the CLECs. And I
5 appreciate what Mr. Clemons has said and I've heard it
6 said by Verizon in the past.

7 The concern with regard to exhibiting
8 flexibility or creativity at times may be a problem in
9 terms of concerns with regard to allegations of
10 discrimination. And that's -- that is one of the
11 factors that we've taken into account in terms of with
12 regard to the rapid response process, that perhaps if
13 there is that type of concern that is preventing a
14 creative solution to a problem, if the issue comes
15 before the Commission and the Commission indicates that
16 it would like to see the problem solved in a particular
17 way, perhaps that regulatory action may provide some
18 guidance with regard to whether or not that particular
19 action by Verizon pursuant to that regular --
20 recommendation or decision is discriminatory or not or
21 undue discrimination I guess is the term.

22 MR. CLEMONS: Just to briefly respond to that,
23 prior to ever getting to any situation where there's a
24 dispute, there has to be a two-way street in terms of
25 cooperation between the parties. I mean that's

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1 crucial. This is not a one-way Verizon's behavior
2 issue, this is CLECs working with Verizon as well
3 because it's essential for work to get done and people
4 to run their companies.

5 COMMISSIONER DIAMOND: I -- the only thing I
6 guess I would observe, I mean some of these things, I
7 think, you can memorialize, at least whether it's write
8 them or whether they're up for debate, but they're
9 memorializable, if you will, and some are probably not;
10 and the relationship is probably not, which is why I
11 think everyone puts so much emphasis on what is going
12 to be the dispute resolution process going forward.

13 But I think on the discrimination thing, I guess
14 my view would be to the extent that one nails down what
15 the company will do in definable circumstances, the
16 less chance you have of any kind of discrimination
17 claim, because you've got a clearly articulated
18 standard that applies to everybody. And so that's one
19 of the reasons why I think getting these things nailed
20 down makes sense from everybody's perspective.

21 Again, I mean I think Verizon has to decide what
22 it's willing to agree to and I guess has to make some
23 judgment as to how that's going to influence what the
24 Commission decides in this process, but I think, you
25 know, the things you are generally going to agree to

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1 that can be articulated and can be defined. I think we
2 do want to do that; and again, the format is one, you
3 know, I respect that needs maybe to think about.

4 I would observe, and I can't remember what the
5 specific was, I think Chairman Welch asked one of the
6 witnesses this morning whether Verizon would have any
7 objection to our conditioning approval of the 271 or
8 endorsement of the 271 application on some specific
9 item, and the witnesses gave an unqualified yes. So I
10 think we already have one in the record.

11 My -- it's been too long ago now for me to
12 remember what the item was, so we may be dependent upon
13 the record, unless every one else can remember what the
14 item was; but I think we already have our first one
15 in -- in there which I think we would feel we're
16 justified in saying this is something that's been
17 agreed to in the context of this proceeding, and as I
18 said, you know, a condition of the action that we
19 take.

20 So I -- I think to the extent we can do those,
21 we should do them. And, of course, we're always free,
22 I guess, as the Commission to add commissions -- add
23 conditions that Verizon, you know, does not agree to;
24 but I mean obviously what I think the hope of this
25 process is, is that maybe we can come out with

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1 something that is acceptable to everybody, you know,
2 sitting at the table.

3 So I don't know where that leaves you, Joe, with
4 your questioning.

5 MR. DONAHUE: No more questions of this
6 witness -- these witnesses.

7 EXAMINER BRAGDON: OPA?

8 MR. JORTNER: I have just one quick question.
9 This -- there was a fair amount of discussion about
10 whether it's feasible to splice and how far light can
11 travel on fiber. Are there manufacturers'
12 specifications for these things from your fiber
13 manufacturers or any other objective standard that
14 would settle some of those disputes?

15 MR. ALBERT: The -- there are several different
16 piece parts. When it comes to transmission loss on
17 fiber cable and how far light can travel, there really
18 are two pieces to the equation. There are
19 manufacturers' specifications for loss for the people
20 that make the actual cable, but then there are also
21 different specifications for the electronics that
22 actually shoot the light down the cables; and whenever
23 you're dealing with an overall fiberoptic system,
24 you've got to deal with all of those piece parts.

25 When it comes to transmission loss within our

1 own network, you know, for the fiberoptic cable makers,
 2 there are certain test results that we test to at the
 3 time that the cable is installed. We accept it from
 4 the cable vendor, but then at that point we basically
 5 accept and use as is the fiber cable as we continue to
 6 use it into the future.

7 And what happens is over time you get more loss
 8 that builds up within each of the glass strands from a
 9 variety of factors. There's some natural deterioration
 10 that occurs. There can be some accidental damages that
 11 occur. There can also be repair activities that
 12 introduce additional splice points, so the -- you know,
 13 we'll have a spec for it at the time it's built and the
 14 time we accept it; but then after that, we pretty much
 15 have a process where we take it as is and we design
 16 everything else around whatever is.

17 The thing we do, too, is we put, on the loss
 18 that we build in and design in, we put a fairly big
 19 factor of safety on that when we initially build a
 20 fiberoptic system; and the reason we do that is to
 21 accommodate for these other unknown variables that
 22 occur over time and do introduce additional loss to
 23 fibers.

24 MR. JORTNER: Okay. I don't have anything
 25 further.

1 more granular with the type of defect it is.

2 MR. HARTMAN: Oh, okay.

3 MR. ALBERT: Open basically means you don't have
 4 continuity.

5 MR. HARTMAN: Right.

6 MR. ALBERT: You can't get light through it.

7 MR. HARTMAN: Okay.

8 MR. ALBERT: So it's like open, ground, short is
 9 the type of a defective condition.

10 MR. HARTMAN: Okay. And it appears in going
 11 through it, there -- there were other instances, like
 12 on the next page afterwards, it looked like there
 13 should have been six maintenance spares, there were
 14 three available.

15 Could that have anything to do with the amount
 16 of defective?

17 MR. ALBERT: Yeah, in -- in a roundabout way.
 18 Base -- basically when a fiber goes defective, we'll
 19 throw it onto a maintenance.

20 MR. HARTMAN: Okay.

21 MR. ALBERT: We'll throw -- we'll throw the
 22 working system onto a maintenance spare. Typically
 23 what happens is we're -- I mean we're not 100 percent
 24 stellar on our records keeping, up real-time when it
 25 comes to maintenance spares. What happens is these

1 EXAMINER BRAGDON: Do you want to go ahead with
 2 your questions?

3 MR. HARTMAN: Sure. I've just got a couple. On
 4 the CTC-22, the chart, Dover-Manchester fiber blockage
 5 is the title, looking at the specific information
 6 starting with page 4. I was just kind of breezing
 7 through it.

8 EXAMINER BRAGDON: They're not there yet.

9 MR. HARTMAN: Oh, I'm sorry.

10 MR. ALBERT: I've got it.

11 MR. HARTMAN: The first one has 40 units? I
 12 don't have a -- I just had a couple of questions. Per
 13 an interrog -- an answer to an interrogatory, it seemed
 14 that there should be six maintenance spares for
 15 something with 40?

16 MR. ALBERT: Yeah, that's probably right. Yes.

17 MR. HARTMAN: Okay. So it appeared there would
 18 be two less available actually than there should be?

19 MR. ALBERT: That's correct, for what's on
 20 here.

21 MR. HARTMAN: Okay. And this is ignorance on my
 22 part, what's open fiber mean?

23 MR. ALBERT: That's a defective fiber.

24 MR. HARTMAN: Oh, the same thing as defective?

25 MR. ALBERT: Yeah. That's being a little bit

1 tend to get used off hours a lot. They get used on an
 2 emergency restoration basis, so we'll frequently, you
 3 know, during the heat of battle in trying to restore
 4 service, we'll go ahead and we'll actually put the new
 5 working system on what previously was the maintenance
 6 spare; and when you do that, you will see the -- the
 7 inventory records correctly reflect the new working
 8 systems, but then having the people go back and then,
 9 if there are available, redesignate additional
 10 maintenance spares.

11 You know, that recordkeeping work and that
 12 redesignation, that's the thing that can frequently lag
 13 because of the heat of the battle and the number of
 14 hours, nature associated with it. So it's not
 15 untypical, particularly where there have been spans
 16 where we have had to use the maintenance spares, it's
 17 not going to be that untypical to see it look like
 18 we've got less that we're -- that we're using as
 19 maintenance spares than what our algorithm points to.
 20 And a lot of that is just because we haven't gone back
 21 and gotten them updated to build them back up to that
 22 quantity.

23 MR. HARTMAN: Great. I had another question, a
 24 general type question. And if -- it first occurred two
 25 pages after this and the third page after it. How best

1 to -- it says at the top termination A point is C A N
 2 D. New Hampshire, and termination Z is MNCH is what I'm
 3 looking at. What was easier for me to look at is that
 4 the units started with 3 instead of 1. I just kind of
 5 wondered what happened with 1 and 2?

6 MR. ALBERT: Virtual fibers.

7 MR. HARTMAN: I'm there.

8 MR. ALBERT: Those might be administered as loop
 9 fibers. That's possible.

10 MR. HARTMAN: Oh, okay.

11 MR. ALBERT: Probably most likely. So if you
 12 see something that looks like a funny-looking count,
 13 that's probably because it's a sheath that has got both
 14 loops that are terminated and dropped off someplace,
 15 and they would be in the TIRKS system for that
 16 particular loop location; and then you've also got the
 17 ones that are terminated end to end as IOF.

18 MR. HARTMAN: That would explain the next page
 19 which really you start to see -- it jumps from 12 to 19
 20 and 24 to 31, and that would -- that explanation would
 21 seem to fit?

22 MR. ALBERT: Yeah. Yeah, most -- you know, the
 23 vast majority of the cases I see where we put these
 24 together for the IOF spans and where you get a hop in
 25 the count or you get a hole in the count, that's

1 COMMISSIONER DIAMOND: Yes. Just a couple
 2 questions. It may be fitting to end with the famous
 3 Dover to Manchester map here on CTC-22 about
 4 comparative treatment in -- in Maine and New
 5 Hampshire.

6 If you had a situation where -- where you get a
 7 request from Dover to Manchester, and let's say through
 8 one of these routes you had cable at each of those
 9 steps, am I correct in understanding that in New
 10 Hampshire the CLEC could -- could access that cable and
 11 it would be interconnected in the intermediate -- in
 12 the intermediate offices but the CLEC would not have to
 13 collocate in those intermediate offices? Is that --

14 MS. DETCH: Correct.

15 COMMISSIONER DIAMOND: -- the way it would work
 16 in New Hampshire?

17 MS. DETCH: Correct. The CLEC would have to
 18 collocate in Dover and in Manchester.

19 COMMISSIONER DIAMOND: Okay. And now if this
 20 were Maine and you had the same situation, the CLEC
 21 would have to collocate in each of the intermediate
 22 offices?

23 MS. DETCH: Yes.

24 COMMISSIONER DIAMOND: All right. What would be
 25 the situation if this were Massachusetts?

1 because in that particular physical cable sheath, a
 2 certain quantity of them will have been built and
 3 terminated and used as loop fibers, but yet the -- the
 4 administrative nomenclature of the counting still does
 5 it from the one --

6 MR. HARTMAN: Sure.

7 MR. ALBERT: -- to the endpoint.

8 EXAMINER BRAGDON: And if the CLEC received this
 9 documentation and noticed these gaps and called you up,
 10 you would explain that to them?

11 MR. ALBERT: Yes. It is kind of funky-looking.

12 MR. HARTMAN: And just to complete it to make
 13 sure, when I looked at it, and I suppose I would have
 14 to say subject to check, I didn't see any instance
 15 where the number of reserved maintenance spares was
 16 greater than the table. So the only thing I saw
 17 on -- on this example was that they were equal to or
 18 less than.

19 MR. ALBERT: Okay.

20 MR. HARTMAN: There wasn't an instance that I
 21 saw that it was greater.

22 MR. ALBERT: Yeah. If -- if there were more
 23 than what the table says, then that would be -- we
 24 goofed. We had more than what we used.

25 EXAMINER BRAGDON: Steve?

1 MS. DETCH: It would be routed through the
 2 intermediate offices and they would not need to
 3 collocate.

4 COMMISSIONER DIAMOND: So does that mean you'd
 5 interconnect -- those would be the same as -- as New
 6 Hampshire?

7 MS. DETCH: Correct.

8 COMMISSIONER DIAMOND: So Maine -- Maine is
 9 different from New Hampshire and Massachusetts in that
 10 respect?

11 MS. DETCH: Right. And New Hampshire and
 12 Massachusetts were the result of the arbitrator's
 13 decision. Maine, the offering is consistent with the
 14 rest of our footprint with the exception of recent
 15 orders.

16 COMMISSIONER DIAMOND: Well, let me ask you
 17 this, and this is one of those stranded questions. I
 18 guess, but would you have any objection to providing
 19 CLECs the same opportunity with respect to the dark
 20 fiber in this respect in the sense that you would do
 21 the interconnection rather than requiring collocation
 22 in Maine?

23 MS. DETCH: My concerns, as I mentioned before,
 24 there's a few concerns. One, obviously, is the
 25 distance --

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1 COMMISSIONER DIAMOND: I'm sorry. Would you
 2 speak up?
 3 MS. DETCH: One, obviously, is the distance
 4 would cause a host of problems with provisioning and
 5 would probably increase the cost to provision. A good
 6 example is this route from Dover to Manchester could be
 7 about 60 miles when going from Durham down, and I think
 8 it's at least 40, 45 miles the other way. So you,
 9 obviously, are going to run into a scenario where we're
 10 going to have to provision more techs.
 11 You know, today the cost structure envisions
 12 technicians at two points, going out and installing
 13 cross-connects and testing. So in Maine the option
 14 would have to be revised cost structures and it would
 15 increase the costs.
 16 So my concerns really would be on that
 17 provisioning aspect. We've had a host of problems with
 18 customers trying to order something this long.
 19 COMMISSIONER DIAMOND: Let me ask --
 20 MS. DETCH: The other thing, just to --
 21 COMMISSIONER DIAMOND: Yes.
 22 MS. DETCH: I think Don raised an example about
 23 an IOF in Maine where I think you said 50 percent have
 24 four or fewer spare -- spare fibers. I think when you
 25 get a request that's not from A to B to C but from A to

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1 S, it's rare that you're going to get a route even with
 2 routing to intermediate offices because you're always
 3 going to have spans that IOF could have blocked.
 4 It's the same with Hyannis to Boston. They
 5 couldn't get it because there were spans that were
 6 congested.
 7 COMMISSIONER DIAMOND: No, I apprecia -- I
 8 appreciate that, but that's just -- that doesn't hurt
 9 you. Actually, in some ways that means you might never
 10 have to do it, in which case it's -- it really doesn't
 11 cost you anything. But the other thing is even if it's
 12 blocked in one or two spots, the CLEC has the option
 13 of -- of building in those spots and not having to
 14 collocate at each step along the way.
 15 And I -- I guess the question I have for you is
 16 do you not recover your costs for this in Massachusetts
 17 and New Hampshire?
 18 MS. DETCH: In Massachusetts and New Hampshire
 19 the cost structure is different to recover, at least
 20 for the installation and testing at the intermediate --
 21 the installation at the intermediate offices. What it
 22 never took into account in the studies was the testing
 23 where CLECs would come in and order things 40, 50, 60,
 24 70 miles long; and the provisioning process, like I
 25 said, when you have those instances, you end up having

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1 problems.
 2 COMMISSIONER DIAMOND: Well, I'm trying to
 3 separate -- I'm trying to separate two things. In one
 4 case I hear you say it's not really feasible because
 5 it's too far.
 6 MS. DETCH: It's not feasible if there's no
 7 realistic parameters.
 8 COMMISSIONER DIAMOND: Realistic parameters,
 9 distance you mean?
 10 MS. DETCH: Distance, or, you know --
 11 MR. ALBERT: Some -- some combination of
 12 distance and links.
 13 COMMISSIONER DIAMOND: Well, let me rephrase
 14 this. Where you determine it would be feasible,
 15 whether you were doing it for yourself or you were
 16 doing it for somebody else, do you have any problem,
 17 and I realize I'm leaving a big if here, but at least
 18 I'm trying to get this out and understand what the
 19 bottom line is, would you have any problem applying the
 20 same process in Maine as you apply in New Hampshire,
 21 namely, not requiring collocation but doing the
 22 interconnection on the intermediate offices and
 23 basically, you know, having comparable opportunity to
 24 recover your costs as you have in Massachusetts and New
 25 Hampshire?

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1 MS. DETCH: Again, I don't think Massachusetts
 2 and New Hampshire quite cover everything as far as
 3 costs, so -- and it's because they don't have those
 4 parameters. It doesn't account for -- I think a
 5 question was asked would you go out and test all those
 6 spans. It doesn't recover that today.
 7 EXAMINER BRAGDON: It -- isn't it quite possible
 8 that you could come in and make a filing with this
 9 Commission to recover those costs and to propose
 10 parameters?
 11 MS. DETCH: I'm sure we could.
 12 EXAMINER BRAGDON: And -- and you could suggest
 13 costs that would cover whatever parameters the
 14 Commission decided upon? It's -- I understand the
 15 costs -- the prices may not exist today, but it's
 16 possible to file such a cost study?
 17 MS. DETCH: Yes, it is.
 18 EXAMINER BRAGDON: And, in fact, that's what
 19 happened in the other states. They ordered you to do
 20 things in a certain way, and then you filed a cost
 21 study to accommodate that?
 22 MS. DETCH: I wasn't fully involved in those
 23 proceedings. My impression was the cost studies
 24 happened during the arbitrations and I don't think they
 25 fully envisioned some of the problems that came out as

1 a result. So they don't fully recover.
 2 MR. BOECKE: Just note a reservation here on
 3 behalf of the company. These other states that have
 4 different policies had open dockets in which the record
 5 was built, parties were able to address it, bring in
 6 witnesses.
 7 What I'm afraid I'm hearing you saying,
 8 Commissioner, is never mind the building of the record
 9 in Maine, would Verizon agree to do all that it has
 10 done in the other states where it's lost these issues.
 11 COMMISSIONER DIAMOND: Well --
 12 MR. BOECKE: And I just -- I think what they're
 13 trying to do is be as gracious as they can --
 14 COMMISSIONER DIAMOND: Right.
 15 MR. BOECKE: But we have some concerns about how
 16 these decisions that were from our perspective lost in
 17 other jurisdictions.
 18 COMMISSIONER DIAMOND: Right. I -- I think
 19 that's a -- I mean a fair point, and I guess maybe it's
 20 not fair to ask these witnesses specifically, but
 21 perhaps to say to the company generally that maybe the
 22 company might want to think about how it thinks this
 23 issue ought to be addressed including us -- including,
 24 you know, giving us good reasons in some submission
 25 before all of this comes to a completion as to why it's

1 conditions, let us know and -- and put it forth. But I
 2 think it's not surprising that we like you are also
 3 looking to the other jurisdictions in New England and
 4 suggesting comparable treatment might be at least a
 5 starting point and establishing if there are reasons
 6 not to do comparable treatment.
 7 MR. CLEMONS: Understood.
 8 COMMISSIONER DIAMOND: And I guess I would make
 9 the same point, I won't ask it as a question because
 10 maybe that's really unfair, with -- with whether or not
 11 one does interconnection versus collocation, it does
 12 seem to me for an appropriate cost that letting a CLEC
 13 know what's available, whether the CLEC has got to
 14 collocate or not, at least to know where the fiber
 15 might be to go from point A to point B would seem to me
 16 to give the CLEC, you know, some -- some real planning
 17 capability rather than doing some guesswork and --
 18 and -- and perhaps having to build, you know, somewhat
 19 blindly.
 20 And so I guess I would ask, which I think is
 21 what Trina referred to as the documentation issue or
 22 something, but, you know, on the documentation issue as
 23 well. That seems to be the practice -- the practice in
 24 New Hampshire, and I don't know whether it's the same
 25 in Massachusetts, but maybe that can be addressed

1 not reasonable for us to expect comparable treatment on
 2 this matter in Maine.
 3 I'm not inviting that to be the response. I
 4 mean, you know, my hope is that the response -- there
 5 are no good reasons and the response can be the
 6 comparable treatment is feasible and reasonable,
 7 subject to what the company determines are needed and
 8 to do it through that format.
 9 I mean in terms of looking to other
 10 jurisdictions and building a comparable record, I'm not
 11 sure you want to push that argument too hard because we
 12 can start with an assurance plan from step 1. We can
 13 start from the whole process from step 1.
 14 We've actually shown, I think, an unusual degree
 15 of willingness to say let's really truncate this
 16 process based upon the fact we recognize we're very far
 17 down the line in terms of other states having done it
 18 and we're willing to accept a lot. How much we'll
 19 accept we yet haven't determined, but we've been
 20 willing to accept, I think, a lot both in the TELRIC
 21 and in this, you know, on that basis. And I think,
 22 quite frankly, it makes sense for all of us if we can
 23 do it.
 24 And so I guess what I'm saying to you in the
 25 same spirit, if there's some obstacle or some

1 as -- as part of the same issue.
 2 That concludes what was supposed to be my
 3 questions but arguably were not questions at all.
 4 EXAMINER BRAGDON: Do you have any follow-up?
 5 MR. HARTMAN: No.
 6 EXAMINER BRAGDON: Any redirect?
 7 MR. CLEMONS: No.
 8 EXAMINER BRAGDON: No?
 9 MR. CLEMONS: No.
 10 EXAMINER BRAGDON: Okay. Any follow-up?
 11 MR. DONAHUE: No.
 12 EXAMINER BRAGDON: No. Okay. Then you -- you
 13 are excused. We have the CLEC Coalition on this as
 14 well. I'm not going to make you go sit up there. I
 15 assume this is not going to be lengthy and we'll do it
 16 right from there, and hopefully this will be short.
 17 Verizon have any questions?
 18 MR. BOECKE: Only if we can ask some questions
 19 the way Commissioner Diamond did. No.
 20 MR. CLEMONS: I think I have about three hours
 21 worth. We have no questions for these witnesses.
 22 EXAMINER BRAGDON: No questions from Verizon.
 23 Questions from other CLECs? OPA? Any redirect?
 24 MR. ALBERT: Can I ask you guys one question? I
 25 mean it's just on an educational issue.

1 COMMISSIONER DIAMOND: Maybe we need to go off
2 the record. I mean is -- is this part of the pro --
3 proceeding or --

4 MR. ALBERT: It's really relating to
5 interconnecting at splice points. There are a couple
6 items -- there -- there were a lot of things I didn't
7 say, I didn't want to do the full spill my guts because
8 I wasn't quite sure what that -- what you were asking
9 relative to the different technical aspects associated
10 with actually interconnecting for dark fiber at splice
11 points.

12 Obviously, I have deep, passionate, technical,
13 operational network reliability problems. There are a
14 couple things I could give you, if it would -- would
15 just help with the overall issue. There's a videotape
16 I was left with the Vermont Commission. It goes
17 through and describes how fiberoptic splicing is done,
18 and -- and really it's -- it isn't just a plug it in
19 and plug it out; it's very complicated. You can get a
20 truck and it's a clean room on wheels and we fusion
21 splice them. It's -- it's not kind -- like you can do
22 brain surgery once but you can't do brain surgery
23 repeated times, but -- but this videotape, it's about
24 15 minutes long. It does a real good job. It's a very
25 complicated, delicate and -- and operationally

1 the right to ask for that at that time.

2 I did want to ask the CLEC Coalition if they
3 have any opinion on -- on the necessity to splice at
4 existing splice points?

5 MR. DONAHUE: I -- I think, I, we think it is a
6 significant issue. It is a technique that we are
7 interested in. I've heard described by one of the CLEC
8 Coalition members this afternoon a way of doing it that
9 sounds less rough shot than what -- what I think Mr.
10 Albert expressed in terms of his concerns. So we do
11 have an interest in seeing that issue and seeing it
12 continued to be pursued in this case, although we don't
13 have a technical expert on the issue in the same manner
14 that CTC does.

15 MR. BOECKE: Just to come back to my earlier
16 comment of Commissioner Diamond, that that -- our
17 witnesses are here to describe how they comply with the
18 current FCC requirement on access to dark fiber. If
19 there's an interest in the State in going beyond the
20 FCC requirement, then let's develop the record to do
21 that, but it's clearly not a 271 checklist item if
22 they're in compliance with the law as it exists now.

23 And -- and I was just getting a little bit
24 uncomfortable when the bench was suggesting would you
25 be willing to do that in Maine since you have to do it

1 sensitive nature of doing splicing that I could get if
2 you all would be interested in seeing this.

3 There's -- there's also this report from the
4 Pennsylvania collaborative where we did an awful lot of
5 work with the CLECs and an awful lot of meetings
6 relative to all of the ramifications and -- and
7 technical aspects associated with interconnecting at
8 splice points, and it's the -- the staff put out a
9 report from that; and it, I think, does a pretty
10 thorough job discussing our view of the world and the
11 CLECs' view of the world.

12 And obviously I'm offering it up because at the
13 end, it supported ours, but I think it does lay out a
14 lot of issues. Because this whole aspect of actually
15 interconnecting at splice points, I mean that would
16 really be plowing big new ground to get in to doing
17 something like that. And I didn't know if those
18 documents would help from an educational perspective or
19 not.

20 EXAMINER BRAGDON: I'm going to reserve my right
21 to ask for those because I'm going to want to cross
22 CTC's -- ask CTC's witness on dark fiber a couple of
23 questions, most specifically the reason that they -- it
24 appears that splicing at -- at already existing splice
25 points is so important to them. And so I'll reserve

1 in other states like Massachusetts: I just would like
2 the opportunity for Verizon to be able to put on the
3 record its concerns.

4 MR. WINCHESTER: And Trina -- I was going to ask
5 Trina that question. More specifically, were you
6 asking how we per -- what we perceived to be the
7 benefit of being able to, you know, get access?

8 EXAMINER BRAGDON: No. I guess more
9 specifically I was asking do you have a present need in
10 engineering and network --

11 MR. DONAHUE: Yes.

12 EXAMINER BRAGDON: -- to terminate at existing
13 splice points?

14 MR. WINCHESTER: At this point in time --

15 MR. DONAHUE: We've been through an unproductive
16 experience in that regard with regard to Verizon. We
17 are using the techniques with an entity other than
18 Verizon successfully at this time.

19 EXAMINER BRAGDON: Okay. That answers --

20 MR. DONAHUE: So we're very interested in seeing
21 that issue pursued, and I think that if it's going to
22 be pursued, the sooner the better, rather than breaking
23 it out of this case and having another proceeding to do
24 it. I think we ought to consider it to be something
25 that I want to address in the context of whether or not

1 Verizon is meeting the 271 checklist.
 2 MR. BRANFMAN: I would concur with that. I
 3 think, you know, Mr. Albert has done an admirable job
 4 of putting forth the Verizon's position from a
 5 technical point of view. I don't see what more he
 6 would do if we had another proceeding. He'd say the
 7 same thing all over again.
 8 EXAMINER BRAGDON: Okay. Well, let's leave
 9 that -- let's leave that -- let's leave that for
 10 another day. We are going to leave the record open on
 11 this checklist item in order to allow questions to be
 12 directed to CTC's witness because I -- the bench will
 13 definitely have a couple questions, and I don't know
 14 that whether anybody else will. So --
 15 COMMISSIONER DIAMOND: Let me just make one
 16 final point maybe to Don which is that I understand
 17 what you're saying, and I -- I guess the -- the thing I
 18 just would point out is that if there are areas where
 19 the company is clear that it doesn't have concerns,
 20 which I thought there was one this morning in response
 21 to Chairman Welch's question, I saw a couple on the
 22 repair, at least, and there didn't seem concerns, it
 23 just might be nice to get that nailed down as part of
 24 the record, that that is the formal position of the --
 25 the company, and that -- that's something we know going

1 available and would be provisioned by March --
 2 MR. WINCHESTER: 6th.
 3 MR. DONAHUE: March 6th and --
 4 MR. CLEMONS: I need to object so I -- I'd
 5 rather he not finish this whole line. It's in his
 6 testimony.
 7 EXAMINER BRAGDON: Right. Well, I was --
 8 MR. CLEMONS: I mean it's exactly what's in the
 9 testimony.
 10 EXAMINER BRAGDON: Right. And I'm going --
 11 MR. DONAHUE: We want to make sure the bench is
 12 aware of this testimony.
 13 MR. CLEMONS: Well, we only got it this
 14 afternoon so -- I mean this morning, so no one has
 15 really had an advanced opportunity to --
 16 EXAMINER BRAGDON: Right.
 17 MR. CLEMONS: -- consider the testimony.
 18 EXAMINER BRAGDON: Right. And I would say
 19 we -- we -- we will review everything on the record and
 20 that certainly parties are free in their briefs to
 21 point us to any specific facts that support any
 22 specific arguments that they make regarding compliance
 23 or noncompliance with the checklists.
 24 MR. WINCHESTER: Can I just make one point,
 25 Trina, just regarding Mr. Clemons' statement? Although

1 forward will be honored. So -- but that's a judgment
 2 that obviously the company makes, not us.
 3 MR. BOECKE: Right.
 4 MR. DONAHUE: In light of the testimony by Mr.
 5 Albert with regard to the availability of dark fiber in
 6 the State of Maine, I was hoping to take a moment or
 7 two to call the Commission's attention to the
 8 statements in the updated declarations of Mr.
 9 Winchester regarding his recent experience with regard
 10 to seeking to acquire dark fiber in the State of
 11 Maine. I don't know if you've had an opportunity to
 12 review that, but that testimony indicates -- I thought
 13 you had, Ms. Hearing Examiner, because you referenced
 14 dark fiber from Portland to Bangor.
 15 EXAMINER BRAGDON: No.
 16 MR. DONAHUE: In fact, Mid-Maine did request a
 17 couple of weeks ago for dark fiber from Portland to
 18 Bangor between COs, between Portland and Bangor and
 19 which would be collocated in each of those COs, the
 20 Portland to Lewiston, Lewiston to Augusta, Augusta
 21 to --
 22 MR. WINCHESTER: Waterville.
 23 MR. DONAHUE: -- Waterville, Waterville to
 24 Newport and Newport to Bangor. We received a response
 25 from Verizon indicating that the dark fiber was

1 you've just gotten this information today as part of
 2 the record, I did send an e-mail to Mr. Boecke last
 3 Friday as part of a separate conversation about my
 4 concern about this, and I did -- I did give --
 5 MR. BOECKE: As long -- as long as we're --
 6 weren't you given Mr. Maguire's card back in November,
 7 that if you had a question, you should call him?
 8 MR. WINCHESTER: I only -- I only --
 9 MR. BOECKE: You could call the account
 10 executive?
 11 MR. WINCHESTER: I only -- we did escalate it
 12 internally, and, Don, I only sent it to you because you
 13 asked me to. I said --
 14 MR. BOECKE: No. You stopped and asked me in
 15 the hallway here what could I do about orders, and I
 16 said I could look into it and I asked you to give me
 17 the PONS numbers.
 18 MR. WINCHESTER: And I gave you the PONS.
 19 MR. BOECKE: That's right, but you asked me to
 20 look into it, and it's too bad Mr. Maguire has left the
 21 room because I think he did look into it.
 22 EXAMINER BRAGDON: Okay.
 23 MR. CLEMONS: This might be helpful, given the
 24 fact that this has been raised as an issue and it's in
 25 the testimony, Verizon hasn't had a chance to respond

1 to it, could we please have our witness, Ms. Detch,
2 address the testimony that we received this morning and
3 provide our side so that when you review their
4 testimony, you'll have a complete record and we've
5 responded to the allegations he just raised?

6 MS. DETCH: I can -- I can address this pretty
7 quickly.

8 EXAMINER BRAGDON: Well, we need to go because
9 the court reporter needs to go and she needs to stop
10 typing because she's been going for close to two hours
11 straight, so -- and I want to think about, quite
12 frankly, all of this in terms of procedurally what
13 we're going to do in terms of the testimony -- the
14 updated information that came in from the CLEC
15 Coalition today and whether there's any opportunity to
16 get any -- allow for any further cross-examination.

17 It may be that since we're leaving the record
18 open in order to cross CTC's witness, we will just plan
19 to have a conference call for an hour when all of the
20 dark fiber witnesses from all of the parties can be
21 available for some final follow-up questions, and that
22 would be transcribed and be part of the record.

23 But I will -- I suggest that everybody think
24 about it tonight, and they can -- if they have specific
25 suggestions, they can make them tomorrow morning, and

1 videotape, but we probably stretched it -- made
2 administrative procedures act as far as the 7th-inning
3 stretch, and I'm principally responsible, and that if
4 we start receiving things outside the context of
5 evidence, you know, we're probably going to stretch it
6 to the breaking point. So at -- at some other point it
7 may be appropriate to do that.

8 EXAMINER BRAGDON: Thank you. We'll start again
9 tomorrow morning at 9:00.

10 (The hearing adjourned at 5:55 P.M.)
11 -----
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16

1 we will think about it as well and we'll make a
2 determination then. Thank you.

3 COMMISSIONER DIAMOND: Let me just say this for
4 an update --

5 MR. BRANFMAN: Excuse me, but before we go off
6 the record, I wanted to resolve the issue since I won't
7 be here tomorrow of getting my exhibits admitted into
8 evidence. There are, I think, seven of the exhibits
9 that I passed out today that I would like to have
10 admitted. I don't know if I can give you the list.

11 EXAMINER BRAGDON: Sure. You can just
12 give -- give the number because the court reporter has
13 copies, right?

14 MR. BRANFMAN: Okay. It's numbers 1, 2, 3, 4,
15 11, 21 and 22.

16 EXAMINER BRAGDON: Are there objections?

17 MR. CLEMONS: There's -- there's only one
18 objection from Verizon to the admission of CTC-15.

19 MR. BRANFMAN: I didn't offer 15.

20 MR. CLEMONS: Oh, okay. Then there's no
21 objection.

22 EXAMINER BRAGDON: Okay. They're moved into the
23 record. Commissioner Diamond?

24 COMMISSIONER DIAMOND: I just want to say, Mr.
25 Albert, it's not that we're not interested in your-

1 STATE OF MAINE
2 I, Colleen A. DiPierro, RMR. CRR, a Notary
3 Public in and for the State of Maine, do hereby certify
4 that the cause of action was stenographically reported
5 by me and later reduced to print through Computer-Aided
6 Transcription, and the foregoing is a full and true
7 record of the testimony given.

8 I further certify that I am a disinterested
9 person in the event or outcome of the above-named cause
10 of action.

11 IN WITNESS WHEREOF I have hereunto set my
12 hand this 1st day of February, 2002.

13
14 
15 Colleen A. DiPierro, RMR. CRR

16
17
18 My Commission Expires
19 May 1, 2004.
20
21
22
23
24
25

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Application by Verizon New England Inc.,)
Bell Atlantic Communications, Inc. (d/b/a) CC Docket No. 02-7
Verizon Long Distance), NYNEX Long)
Distance Company (d/b/a Verizon Enterprise)
Solutions), Verizon Global Networks Inc., and)
Verizon Select Services Inc., for)
Authorization To Provide In-Region,)
InterLATA Services in Vermont)

MEMORANDUM OPINION AND ORDER

Adopted: April 17, 2002

Released: April 17, 2002

By the Commission: Commissioner Copps issuing a statement.

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APPENDIX D: STATUTORY REQUIREMENTS

I. INTRODUCTION

1. On January 17, 2002, Verizon New England Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions), Verizon Global Networks Inc., and Verizon Select Services Inc. (Verizon) filed this application pursuant to section 271 of the Communications Act of 1934, as amended,¹ for authority to provide in-region, interLATA service originating in the State of Vermont. We grant the application in this Order based on our conclusion that Verizon has taken the statutorily required steps to open its local exchange markets in Vermont to competition.

2. This application demonstrates that even in very rural states, competition in the market for local telecommunications can develop. According to Verizon, competing carriers in Vermont serve approximately 21,500 lines using all three entry paths available under the Act (resale, unbundled network elements, and competitor-owned facilities).² Across the state, competitors serve approximately 15,900 lines through resale and approximately 5,600 lines using unbundled network elements or their own facilities.³

3. We wish to acknowledge the effort and dedication of the Vermont Public Service Board (Vermont Board). We recognize that in smaller, more rural states, the section 271 process taxes the resources of the state commissions, which regulate many vital areas in addition to local

¹ We refer to the Communications Act of 1934, as amended by the Telecommunications Act of 1996 and other statutes, as the Communications Act, or the Act. See 47 U.S.C. §§ 151 *et seq.* We refer to the Telecommunications Act of 1996 as the 1996 Act. See Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996).

² See Verizon Application App. A, Vol. 3, Tab F, Declaration of Paula L. Brown (Verizon Brown Decl.) Attach. 1 at para. 3.

³ Verizon Brown Decl. Attach 1 at para. 6.

telephone service. Yet, by diligently and actively conducting proceedings beginning in 1997 to set TELRIC prices, implement performance measures, develop a Performance Assurance Plan (PAP), and gauge Verizon's compliance with section 271 of the Act, the Vermont Board has laid the necessary foundation for our review and approval. We are confident that the Board's efforts, which made it possible for us to grant this application, will reward Vermont consumers by making increased competition in telecommunications possible in the state.

II. BACKGROUND

4. In the 1996 amendments to the Communications Act, Congress required that the BOCs demonstrate compliance with certain market-opening requirements contained in section 271 of the Act before providing in-region, interLATA long distance service. Congress provided for Commission review of BOC applications to provide such service in consultation with the affected state and the Attorney General.⁴

5. We rely heavily in our examination of this application on the work completed by the Vermont Board. Beginning in 1995, the Vermont Board conducted its own proceeding to require unbundling of network elements and combinations of network elements.⁵ The Vermont Board also conducted a series of pricing proceedings to set the rates for those elements.⁶ In July 1999, the Vermont Board opened a proceeding to adopt performance measures for use in Vermont, and in December 2001 the Vermont Board adopted the New York Commission's guidelines with minor modifications.⁷ Verizon must amend its Vermont guidelines within 30 days to conform to any changes that the New York Commission requires.⁸

6. On August 7, 2001, Verizon formally asked the Vermont Board to consider whether Verizon is complying with the requirements of section 271.⁹ The Vermont Board

⁴ The Commission has summarized the relevant statutory framework in prior orders. See, e.g., *Joint Application by SBC Communications Inc., Southwestern Bell Tel. Co., and Southwestern Bell Communications Services, Inc., d/b/a Southwestern Bell Long Distance for Provision of In-Region, InterLATA Services in Kansas and Oklahoma*, Memorandum Opinion and Order, 16 FCC Rcd 6237, 6241-42, paras. 7-10 (2001) (*SWBT Kansas/Oklahoma Order*), *aff'd in part, remanded in part sub nom. Sprint Communications Co. v. FCC*, 274 F.3d 549 (D.C. Cir. 2001) (*Sprint v. FCC*); *Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act to Provide In-Region, InterLATA Service in the State of New York*, Memorandum Opinion and Order, 15 FCC Rcd 3953, 3961-63, paras. 17-20 (1999) (*Bell Atlantic New York Order*), *aff'd sub nom. AT&T Corp. v. FCC*, 220 F.3d 607 (D.C. Cir. 2000).

⁵ See Vermont Board Comments App. B.

⁶ See *id.* The history of UNE pricing in Vermont is set forth in more detail *infra* part III.B.1.a.

⁷ See Verizon Application App. I, Tab 3, Vermont PSB, *Investigation into the Establishment of Wholesale Service Quality Standards for Providers of Telecommunications Services: Phase I (standards)*, Order Approving Carrier to Carrier Standards, Docket No. 6255 (Dec. 12, 2001) (Vermont PSB Performance Measures Order); Verizon Application App. L, Tab 11, State of New York Public Service Commission Order Modifying Existing and Establishing Additional Inter-Carrier Service Quality Guidelines (Oct. 29, 2001) (New York PSC October Order).

⁸ See Vermont PSB Performance Measures Order at 3.

⁹ See Vermont Board Comments at 4.

opened a docket to consider Verizon's request, and conducted a comprehensive evaluation of Verizon's compliance with section 271. The Vermont Board accepted comments, declarations, exhibits, and briefs of all interested parties, and also conducted five days of evidentiary hearings.¹⁰ On completion of its proceeding, the Vermont Board sent a letter to Verizon expressing its conclusion that "Verizon VT has taken the appropriate steps to open the local exchange and exchange access markets in Vermont to competition in accordance with standards set forth in the Act."¹¹ The Board's recommendation, however, was conditioned on Verizon taking several actions, including lowering its nonrecurring charges for DSL installation and instituting a document retention policy relating to wholesale billing disputes.¹² In this proceeding, the Vermont Board filed a more detailed recommendation, in which it "supports Verizon's application under Section 271 of the Communications Act for authority to provide in-region inter-LATA service."¹³ The Board expressly finds, in addition, that "Verizon has already complied with all of the conditions that were imposed by this Board."¹⁴

7. The Department of Justice filed its recommendation on February 21, 2002.¹⁵ We note, significantly, that the Department of Justice recommends approval of Verizon's application for section 271 authority in Vermont, stating that:

Although there is significantly less competition to serve residential customers [than business customers], the Department does not believe there are any material non-price obstacles to competition in Vermont created by Verizon. Verizon has submitted evidence to show that its Vermont OSS are the same as those that the Commission found satisfactory in Massachusetts. Moreover, the record indicates few complaints regarding Verizon's Vermont OSS.¹⁶

¹⁰ See *id.* at 4-5.

¹¹ Verizon Application App. L, Tab 21. Letter from Vermont Public Service Board to V. Louise McCarren, President & CEO, Verizon New England, Inc., *Application of Verizon New England Inc., d/b/a Verizon Vermont, for a Favorable Recommendation To Offer InterLATA Service under 47 U.S.C. 271*, PSB Docket No. 6533, at 2 (Jan. 16, 2002) (Vermont PSB Section 271 Approval Letter).

¹² See *id.* at 3-5.

¹³ Vermont Board Comments at 36.

¹⁴ Vermont Board Comments at 4.

¹⁵ Section 271(d)(2)(A) requires us to give "substantial weight" to the Department's evaluation. 47 U.S.C. § 271(d)(2)(A).

¹⁶ Department of Justice Evaluation at 5-6 (footnotes omitted).

While the Department of Justice does not believe that there exist non-price obstacles to competition in Vermont, "[t]he Department urges the Commission to look carefully at . . . comments in determining whether Verizon's prices are cost-based."¹⁷

III. PRIMARY ISSUES IN DISPUTE

8. As in recent section 271 orders, we will not repeat here the analytical framework and particular legal showing required to establish compliance with every checklist item. Rather, we rely on the legal and analytical precedent established in prior section 271 orders, and we attach comprehensive appendices containing performance data and the statutory framework for evaluating section 271 applications.¹⁸ Our conclusions in this Order are based on performance data as reported in carrier-to-carrier reports reflecting service in the most recent months before filing (September 2001 through January 2002).¹⁹

9. We focus in this Order on the issues in controversy in the record. Accordingly, we begin by addressing whether the application qualifies for consideration under section 271(c)(1)(A) (Track A) and checklist item two (unbundled network elements, or UNEs). Next, we address checklist items one (interconnection), four (unbundled local loops), five (transport), and thirteen (reciprocal compensation). The remaining checklist items are discussed briefly. We find, based on our review of the evidence in the record, that Verizon satisfies all the checklist requirements.

A. Section 271(c)(1)(A)

10. In order for the Commission to approve a BOC's application to provide in-region, interLATA services, a BOC must first demonstrate that it satisfies the requirements of either

¹⁷ *Id.* at 6-7 (footnote omitted).

¹⁸ Appendices B (Vermont Performance Data), C (Massachusetts Performance Data), and D (Statutory Requirements); see *Application by Verizon New England Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions), Verizon Global Networks Inc., and Verizon Select Services Inc. for Authorization To Provide In-Region, InterLATA Services in Rhode Island*, Memorandum Opinion and Order, 17 FCC Rcd 3300, Apps. B, C, and D (2002) (*Verizon Rhode Island Order*); *Joint Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc., d/b/a Southwestern Bell Long Distance Pursuant to Section 271 of the Telecommunications Act of 1996 To Provide In-Region, InterLATA Services in Arkansas and Missouri*, 16 FCC Rcd 20719, Apps. B, C, and D (*SWBT Arkansas/Missouri Order*); *Application of Verizon Pennsylvania Inc., Verizon Long Distance, Verizon Enterprise Solutions, Verizon Global Networks Inc., and Verizon Select Services Inc. for Authorization To Provide In-Region, InterLATA Services in Pennsylvania*, Memorandum Opinion and Order, 16 FCC Rcd 17419, 17508-545, Apps. B and C (2001) (*Verizon Pennsylvania Order*).

¹⁹ We examine data through January 2002 because they describe performance that occurred before comments were due in this proceeding on February 6, 2002. See *Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc., d/b/a Southwestern Bell Long Distance Pursuant to Section 271 of the Telecommunications Act of 1996 To Provide In-Region, InterLATA Services in Texas*, Memorandum Opinion and Order, 15 FCC Rcd 18354, 18372, para. 39 (2000) (*SWBT Texas Order*).

section 271(c)(1)(A) (Track A) or section 271(c)(1)(B) (Track B).²⁰ To meet the requirements of Track A, a BOC must have interconnection agreements with "one or more unaffiliated competing providers of telephone exchange service . . . to residential and business customers."²¹ The Commission has further held that a BOC must show that at least one "competing provider" constitutes "an actual commercial alternative to the BOC,"²² which a BOC can do by demonstrating that the provider serves "more than a *de minimis* number" of subscribers.²³ The Commission has interpreted Track A not to require any particular level of market penetration, however, and the D.C. Circuit has affirmed that the Act "imposes no volume requirements for satisfaction of Track A."²⁴

11. We conclude that Verizon satisfies the requirements of Track A in Vermont. Verizon relies on interconnection agreements with SoVerNet, Z-Tel, and Adelphia in support of its Track A showing, and we find that each of these carriers serves more than a *de minimis* number of end users predominantly over its own facilities and represents an "actual commercial alternative" to Verizon in Vermont.²⁵ Specifically, SoVerNet provides telephone exchange service to both residential and business subscribers in Vermont using UNEs and its own facilities. SoVerNet is expanding its footprint in the state with additional collocation arrangements, and is actively pursuing new customers through advertising and marketing.²⁶ Z-Tel provides services to residential subscribers over the UNE-Platform.²⁷ Adelphia, the largest facilities-based competitive provider in Vermont, serves business customers using UNEs and its

²⁰ 47 U.S.C. § 271(c)(1).

²¹ *Id.* § 271(c)(1)(A).

²² *Application by SBC Communications Inc., Pursuant to Section 271 of the Communications Act of 1934, as amended, To Provide In-Region, InterLATA Services in Oklahoma*, Memorandum Opinion and Order, 12 FCC Rcd 8685, 8695, para. 14 (1997) (*SWBT Oklahoma Order*).

²³ *SWBT Kansas/Oklahoma Order*, 15 FCC Rcd at 6257, para. 42; see also *Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as amended, To Provide In-Region, InterLATA Services in Michigan*, Memorandum Opinion and Order, 12 FCC Rcd 20543, 20585, para. 78 (1997) (*Ameritech Michigan Order*).

²⁴ *Sprint v. FCC*, 274 F.3d 549, 553-54 (D.C. Cir. 2001); see also *SBC Communications Inc. v. FCC*, 138 F.3d 410, 416 (D.C. Cir. 1998) ("Track A does not indicate just how much competition a provider must offer in either the business or residential markets before it is deemed a 'competing' provider.").

²⁵ *SWBT Oklahoma Order*, 12 FCC Rcd at 8695, para. 14.

²⁶ Verizon Application at 8-9; Verizon Brown Decl. Attach. 1 (*citing confidential portion*) para. 28; Letter from Richard T. Ellis, Director - Federal Affairs, to William Cannon [sic], Acting Secretary, Federal Communications Commission, CC Docket No. 02-7 (filed Feb. 11, 2001) (Verizon Feb. 11 *Ex Parte* Letter) (*citing confidential portion*). In its comments in this proceeding, SoVerNet confirmed and slightly augmented Verizon's estimate of its facilities-based residential end user count. See SoVerNet Comments at 3.

²⁷ Verizon Brown Decl. Attach 1 (*citing confidential portion*) para. 30.

own facilities.²⁸ Competitors have penetrated the business market to a notable extent, considering Vermont's largely rural nature. While there is less facilities-based competition for residential customers than for business customers, the level of facilities-based competition in the residential market is comparable to other largely rural states where the Commission has granted section 271 authority, and, in any event, satisfies the minimum requirements of Track A.²⁹

12. We disagree with commenters who contend that the generally low levels of residential facilities-based competition in Vermont must result in a finding that Verizon does not meet the requirements of Track A.³⁰ Sprint, for example, argues that the generally low levels of residential facilities-based competition mean that the carriers described above are not "competing providers."³¹ Congress specifically declined to adopt a volume requirement, market share, or other similar test for BOC entry into long distance,³² and, as stated above, we find that each of the carriers described above is actively providing facilities-based service to more than a *de minimis* number of customers.

B. Checklist Item 2 – Unbundled Network Elements

1. Pricing of Unbundled Network Elements

a. Background

13. Checklist item two of section 271 states that a BOC must provide "nondiscriminatory access to network elements in accordance with sections 251(c)(3) and 252(d)(1)" of the Act.³³ Section 251(c)(3) requires incumbent LECs to provide "nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on rates, terms, and conditions that are just, reasonable, and nondiscriminatory."³⁴ Section

²⁸ Verizon Application at 8-9; Verizon Brown Decl. Attach. 1 (*citing confidential portion*) para. 23; Verizon Feb. 11 *Ex Parte* Letter (*citing confidential portion*). Verizon argues that Adelphia also serves some residential customers. Adelphia, however, argues that those lines, which serve senior living centers and more closely resemble a shared tenant service, or which serve small businesses where the business is located at the owner's home, should not be counted as residential. See Adelphia Comments at 2; Adelphia Reply at 2. We need not resolve this question because we find that even excluding from our analysis these disputed customers, Verizon satisfies the requirements of Track A because SoVerNet and Z-Tel each serve a sufficient number of residential customers.

²⁹ See *SWBT Arkansas/Missouri Order*, 16 FCC Rcd at 20778-80, paras. 117-21; *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6256-59, paras. 40-44.

³⁰ Sprint Comments at 9-10; SoVerNet Comments at 3.

³¹ Sprint Comments at 10.

³² *Sprint v. FCC*, 274 F.3d at 553-54; *Ameritech Michigan Order*, 12 FCC Rcd at 20585, para. 77. We further address parties' arguments regarding the general levels of competition in Vermont in our discussion of the public interest requirement, *infra* part VI.

³³ 47 U.S.C. § 271(B)(ii).

³⁴ *Id.* § 251(c)(3).

252(d)(1) requires that a state commission's determination of the just and reasonable rates for network elements shall be based on the cost of providing the network elements, shall be nondiscriminatory, and may include a reasonable profit.³⁵ Pursuant to this statutory mandate, the Commission has determined that prices for unbundled network elements (UNEs) must be based on the total element long run incremental cost (TELRIC) of providing those elements.³⁶

14. Although the U.S. Court of Appeals for the Eighth Circuit stayed the Commission's pricing rules in 1996 and vacated them in 1997,³⁷ the U.S. Supreme Court restored the Commission's pricing authority on January 25, 1999, and remanded to the Eighth Circuit for consideration of the merits of the challenged rules.³⁸ On remand from the Supreme Court, the Eighth Circuit concluded that, while a forward-looking cost methodology is an acceptable method for determining costs, certain specific Commission pricing rules were contrary to Congressional intent.³⁹ The Eighth Circuit stayed the issuance of its mandate pending review by the Supreme Court.⁴⁰ Accordingly, the Commission's rules remain in effect for purposes of this application.⁴¹

³⁵ *Id.* § 252(d)(1).

³⁶ *In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket 96-98, First Report and Order, 11 FCC Rcd 15499, 15844-46, paras. 674-79 (1996) (*Local Competition Order*) (subsequent history omitted); 47 C.F.R. §§ 51.501 *et seq.* See also *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket No. 98-147, and *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, Third Report and Order and Fourth Report and Order, 14 FCC Rcd 20912, 20974, para. 135 (1999) (*Line Sharing Order*), *pets. for review pending sub nom. USTA, et al. v. FCC*, D.C. Cir. No. 00-1012 and consolidated cases (filed Jan. 18, 2000) (concluding that states should set the prices for line sharing as a new network element in the same manner as states set prices for other UNEs).

³⁷ *Iowa Utils. Bd. v. FCC*, 120 F.3d 753, 800, 804, 805-06 (8th Cir. 1997).

³⁸ *AT&T v. Iowa Utils. Bd.*, 525 U.S. 366 (1999). In reaching its decision, the Court acknowledged that section 201(b) "explicitly grants the FCC jurisdiction to make rules governing matters to which the 1996 Act applies." *Id.* at 380. The Court determined that section 251(d) provides evidence of an express jurisdictional grant by requiring that "the Commission [shall] complete all actions necessary to establish regulations to implement the requirements of this section." *Id.* at 382. The pricing provisions implemented under the Commission's rulemaking authority, according to the Court, do not inhibit the establishment of rates by the states. The Court concluded that the Commission has jurisdiction to design a pricing methodology to facilitate local competition under the 1996 Act, including pricing for interconnection and unbundled access, as "it is the States that will apply those standards and implement that methodology, determining the concrete result." *Id.*

³⁹ *Iowa Utils. Bd. v. FCC*, 219 F.3d 744 (8th Cir. 2000), *cert. granted sub nom. Verizon Communications, Inc. v. FCC*, 531 U.S. 1124 (2001).

⁴⁰ *Iowa Utils. Bd. v. FCC*, No. 96-3321 (8th Cir. Sept. 25, 2000).

⁴¹ See App. D, section IV.B.3. *infra*.

15. The Commission has previously held that it will not conduct a *de novo* review of a state's pricing determinations.⁴² We will not reject an application "because isolated factual findings by a commission might be different from what we might have found if we were arbitrating the matter. . . ."⁴³ We will, however, reject an application if "basic TELRIC principles are violated or the state commission makes clear errors in factual findings on matters so substantial that the end result falls outside the range that the reasonable application of TELRIC principles would produce."⁴⁴

16. In July 1997, the Vermont Public Service Board (Vermont Board) began what would become a lengthy, two and one half-year proceeding to set rates for unbundled network elements (UNEs). Even though it had the limited resources typical for many small states, the Vermont Board conducted a detailed scrutiny of the many complex issues presented in a UNE rate proceeding, particularly in light of the legal uncertainties then surrounding the Commission's TELRIC methodology. In July 1997, Verizon filed a Statement of Generally Available Terms (SGAT) setting the terms, conditions, and prices for UNEs and cost studies supporting its recurring and nonrecurring rates.⁴⁵ Those rates took effect in September 1997. Thereafter, in October 1997, Verizon and other parties, including AT&T, MCI Corporation (now WorldCom), and the Vermont Department of Public Service (Vermont Department), filed written testimony regarding the rates and cost studies. In December 1997, the Vermont Board conducted seven days of hearings on recurring costs, with an additional day of hearings in April 1998. The Vermont Board also conducted four days of hearings on nonrecurring costs in March 1998. At the close of the hearings, all parties had an opportunity to file briefs on all cost-related issues.⁴⁶ On October 15, 1999, a hearing officer issued a Proposal for Decision evaluating all testimony and briefs and recommending various resolutions for the issues raised in the proceedings.⁴⁷ On February 4, 2000, the Vermont Board issued an order accepting almost all of the hearing officer's

⁴² *Bell Atlantic New York Order*, 15 FCC Rcd at 4084, para. 244, *aff'd*, *AT&T Corp v. FCC*, 220 F.3d at 615-16; *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6266, para. 59, *aff'd*, *Sprint v. FCC*, 274 F.3d at 556 ("When the Commission adjudicates § 271 applications, it does not – and cannot – conduct *de novo* review of state rate-setting determinations. Instead, it makes a general assessment of compliance with TELRIC principles."); *Verizon Pennsylvania Order*, 16 FCC Rcd at 17453, para. 55.

⁴³ *Bell Atlantic New York Order*, 15 FCC Rcd at 4084, para. 244, *aff'd*, *AT&T Corp v. FCC*, 220 F.3d at 615-16.

⁴⁴ *Id.* See also *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6266, para. 59, *aff'd*, *Sprint v. FCC*, 274 F.3d at 556; *Verizon Pennsylvania Order*, 16 FCC Rcd at 17453, para. 55.

⁴⁵ Verizon Application at 81; Verizon Application App. A, Vol. 3, Tab D, Joint Declaration of V. Louise McCarren, Patrick A. Garzillo, and Michael J. Anglin (Verizon McCarren/Garzillo/Anglin Decl.) at 3-4, para. 13.

⁴⁶ *Id.*; Verizon McCarren/Garzillo/Anglin Decl. at 4, paras. 14-15.

⁴⁷ Vermont PSB, *Investigation into New England Telephone and Telegraph Company's (NET's) tariff filing re: Open Network Architecture, including the unbundling of NET's network, expanded interconnection, and intelligent networks in re: Phase II, Module 2 – Cost Studies*, Proposal for Decision, Docket No. 5713 (rel. Oct. 15, 1999) (*Vermont UNE Rate Proposal for Decision*).

recommendations and formally adopting the TELRIC methodology.⁴⁸ The Board also adopted Verizon's recurring cost model, with revised inputs, and AT&T's competing, nonrecurring cost model, with revised inputs.⁴⁹ The Board found that Verizon's rates, as modified by the revised inputs mandated by the Board, complied with basic TELRIC principles.⁵⁰ Verizon filed revised rates and cost studies for recurring charges to comply with the Vermont Board's order on April 4, 2000, and the revised rates became effective on June 4, 2000.⁵¹ Verizon filed revised rates and cost studies for nonrecurring charges to comply with the Vermont Board's order on May 25, 2000, and they became effective on August 2, 2000.⁵² The Vermont Board formally adopted the revised rates on August 23, 2000.⁵³

17. On August 7, 2001, Verizon asked the Vermont Board to determine whether Verizon met the requirements of section 271 to provide in-region, interLATA service in Vermont.⁵⁴ The Vermont Board considered Verizon's request in a separate docket in which it examined the declarations, exhibits, briefs, and comments submitted by numerous parties, including the Vermont Department, AT&T, WorldCom, Sprint, and Adelphia Business Solutions.⁵⁵ The Vermont Board conducted five days of hearings for cross-examination of declarations and exhibits.⁵⁶ According to the Vermont Board, "[W]ith minor exceptions, no party raised concern over Verizon's pricing of unbundled network elements."⁵⁷ On January 16, 2002, the Vermont Board found that Verizon satisfied the requirements of section 271, conditioned on

⁴⁸ Vermont PSB, *Investigation into New England Telephone and Telegraph Company's (NET's) tariff filing re: Open Network Architecture, including the unbundling of NET's network, expanded interconnection, and intelligent networks in re: Phase II, Module 2 - Cost Studies*, Order, Docket No. 5713 (rel. Feb. 4, 2000) (*Vermont UNE Rate Order*.)

⁴⁹ See *Vermont UNE Rate Proposal for Decision* at 14-47, 69-73.

⁵⁰ *Vermont PSB Section 271 Approval Letter* at 2; Vermont Board Comments at 27.

⁵¹ Verizon Application at 82; Verizon McCarren/Garzillo/Anglin Decl. at 4-5, paras. 16-17.

⁵² Verizon McCarren/Garzillo/Anglin Decl. at 5, para. 18.

⁵³ Vermont PSB, *Investigation into New England Telephone and Telegraph Company's (NET's) tariff filing re: Open Network Architecture, including the unbundling of NET's network, expanded interconnection, and intelligent networks in re: Phase II, Module 2 - Cost Studies*, Order, Docket No. 5713 (rel. Aug. 23, 2000). On October 12, 2000, in a separate docket, the Vermont Board also ordered Verizon to deaverage loop rates. Vermont PSB, *Investigation of Geographically Deaveraged Unbundled Network Prices*, Order, Docket No. 6318, (rel. Oct. 12, 2000) (*Vermont Loop Deaveraging Order*). These deaveraged loop rates took effect on February 11, 2001. See also Verizon McCarren/Garzillo/Anglin Decl. at 5-6, para. 21.

⁵⁴ Vermont Board Comments at 4.

⁵⁵ *Id.* at 4-5.

⁵⁶ *Id.* at 5.

⁵⁷ *Id.*

several changes to Verizon's proposed offerings for Digital Subscriber Line (DSL) services.⁵⁸ Verizon notified the Commission that it had satisfied these conditions on January 30, 2002.⁵⁹

b. Discussion

18. Based on the evidence in the record, we find that Verizon's Vermont UNE rates are just, reasonable, and nondiscriminatory as required by section 251(c)(3), and are based on cost plus a reasonable profit as required by section 252(d)(1). Thus, Verizon's Vermont UNE rates satisfy checklist item two. The Commission has previously held that it will not conduct a *de novo* review of a state's pricing determinations and will reject an application only if either "basic TELRIC principles are violated or the state commission makes clear errors in factual findings on matters so substantial that the end result falls outside the range that the reasonable application of TELRIC principles would produce."⁶⁰ The Vermont Board concluded that Verizon's Vermont UNE rates satisfied the requirements of checklist item two.⁶¹ While we have not conducted a *de novo* review of the Vermont Board's pricing determinations, we have followed the urging of the Department of Justice that we examine commenters' complaints regarding UNE pricing.⁶² After carefully reviewing these complaints, we conclude that the Vermont Board followed basic TELRIC principles and the complaints do not support a finding that the Vermont Board committed any clear error. Thus, we conclude that Verizon's Vermont UNE rates satisfy the requirements of checklist item two.

19. We commend the Vermont Board for the prodigious effort of its small staff to establish TELRIC-compliant rates and note that its orders in the Vermont UNE rate proceeding correctly apply basic TELRIC principles. After two and one-half years of discovery, briefings, and hearings, which included the examination of competing cost studies filed by Verizon and AT&T, the Vermont Board adopted UNE rates that incorporated many of the TELRIC-compliant assumptions recommended by the Vermont Department of Public Service.⁶³

⁵⁸ *Vermont PSB Section 271 Approval Letter* at 2.

⁵⁹ Letter from Richard T. Ellis, Director—Federal Affairs, Verizon to Magalie Roman Salas, Secretary, Federal Communications Commission, CC Docket No. 02-7 (filed Jan. 30, 2002.)

⁶⁰ *Bell Atlantic New York Order*, 15 FCC Rcd at 4084, para. 244, *aff'd*, *AT&T Corp. v. FCC*, 220 F.3d at 615-16; *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6266, para. 59, *aff'd*, *Sprint v. FCC*, 274 F.3d at 556; *Verizon Pennsylvania Order*, 16 FCC Rcd at 17453, para. 55.

⁶¹ *Vermont PSB Section 271 Approval Letter* at 2; Vermont Board Comments at 27.

⁶² Department of Justice Evaluation at 6-7.

⁶³ While not specifically addressing pricing issues, we note that the Vermont Supreme Court recently affirmed Vermont Board decisions regarding combining UNEs and resale that Verizon had challenged. *Petition of Verizon New England Inc.*, No. 2000-118, 2002 WL253771 (Vt. Feb. 22, 2002).

(i) Scope of Review

20. *Age of Data.* Virtually all pricing complaints from commenters relate to Verizon's switching and Daily Usage File (DUF) rates.⁶⁴ At the outset we note that, despite the fact that AT&T and WorldCom participated in the Vermont UNE rate proceeding, many of the problems with Verizon's switching and DUF rates raised here were never raised in Vermont.⁶⁵ Therefore, on a number of complex and fact-specific issues, we are being asked to reject the Vermont Board's factual findings on cost study inputs on the basis of conflicting assertions by the parties that they did not make in the Vermont rate proceeding. Previously we have explained that our role in considering a section 271 application is to review the record in the state UNE rate proceeding to determine whether the state commission correctly applied TELRIC principles in adopting UNE rates and made no clear error which causes the rates to fall outside a reasonable TELRIC range.⁶⁶ While we are not requiring parties to raise all pricing issues at the state level before raising them in a section 271 proceeding, it is both impracticable and inappropriate for us to make many of the fact-specific findings the parties seek in this section 271 review, when many of the Vermont Board's fact-specific findings have not been challenged below.⁶⁷ As we have previously stated, we cannot conduct a *de novo* rate proceeding in a section 271 review.⁶⁸ Here, AT&T and WorldCom raise new complaints that they never brought before the Vermont Board, and have failed to demonstrate that the Vermont Board committed any clear error.⁶⁹

21. Much of the underpinning of complaints by AT&T and WorldCom regarding Verizon's switching rates is that the data underlying the inputs into Verizon's switching cost studies is old.⁷⁰ AT&T and WorldCom do not attack the TELRIC compliance of Verizon's

⁶⁴ DUFs contain information recorded by the switch during the call that is used to bill customers. Commenters do not raise substantive concerns regarding Verizon's loop rates or nonrecurring charges. Loop rates refer to wholesale prices for the connection from the end user premises to a Verizon central office. Nonrecurring charges refer to one-time charges for requesting and providing UNEs.

⁶⁵ The issues raised here that were never raised in Vermont include complaints regarding Verizon's minute-of-use calculation for spreading its switch investment cost over switch usage, DUF rates, and switching related fill factors. See Verizon Reply at 11, 10, and 5. See also Letter from Richard T. Ellis, Director—Federal Affairs, Verizon to William Caton, Acting Secretary, Federal Communications Commission, CC Docket No. 02-7 (filed March 18, 2002) (Verizon March 18 *Ex Parte* Letter).

⁶⁶ *Bell Atlantic New York Order*, 15 FCC Rcd at 4084, para. 244, *aff'd*, *AT&T Corp. v. FCC*, 220 F.3d at 615-16; *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6266, para. 59, *aff'd*, *Sprint v. FCC*, 274 F.3d at 556; *Verizon Pennsylvania Order*, 16 FCC Rcd at 17453, para. 55.

⁶⁷ See *SWBT Missouri/Arkansas Order*, 16 FCC Rcd at 20754-55, para. 73.

⁶⁸ *Bell Atlantic New York Order*, 15 FCC Rcd at 4084, para. 244, *aff'd*, *AT&T Corp. v. FCC*, 220 F.3d at 615-16; *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd at 6266, para. 59, *aff'd*, *Sprint v. FCC*, 274 F.3d at 556; *Verizon Pennsylvania Order*, 16 FCC Rcd at 17453, para. 55.

⁶⁹ Of course, if we note a patent TELRIC error in the course of a section 271 review, we will not ignore it simply because it was not raised before the state commission.

⁷⁰ AT&T makes this claim regarding Verizon's switch discount, switch installation and power factors, and DUF rate. AT&T Comments at 6, 9-11, 15, 17; AT&T Comments, Declaration of Catherine E. Pitts (AT&T Pitts Decl.) (continued....)

switching cost model, the Switch Cost Investment System (SCIS) model developed by Telcordia Technologies (formerly Bellcore) to assist BOCs in developing their switching costs and resulting rates.⁷¹ Instead, AT&T and WorldCom dispute the inputs Verizon used in running the model to produce switching costs, primarily because of their age. These allegedly outdated inputs, according to AT&T and WorldCom, produced switching rates that are too high to be TELRIC compliant. The evidence shows that the Vermont Board considered and addressed concerns regarding the age of the data and, with AT&T's support, adopted a six percent across the board reduction in Verizon's UNE rates, in part to address concerns about the age of the data in Verizon's cost studies.⁷²

22. Further, the basis of AT&T and WorldCom's complaints about the age of the data is that fact that, in more recent rate proceedings in other Verizon states, newer switching cost data and inputs have resulted in lower switching rates.⁷³ Despite this fact, neither AT&T nor WorldCom have asked the Vermont Board to require Verizon to update the data and inputs for its switching cost studies. The Act imposes no obligation on Verizon to update data in Vermont each time it files a newer cost study in another state, particularly when it has never been asked to do so.

23. The Commission has recognized that rates may well evolve over time to reflect new information on cost study inputs and changes in technology, engineering practices, or market conditions.⁷⁴ The United States Court of Appeals for the District of Columbia Circuit agrees:

[W]e suspect that rates may often need adjustment to reflect newly discovered information. . . . If new information automatically required rejection of section 271 applications, we cannot imagine

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at 3, para. 5, 5-6, para. 10, 11-12, paras. 21-22; AT&T Comments, Declaration of Michael Lieberman on behalf of AT&T Corp. (AT&T Lieberman Decl.) at 11-12, paras. 29-31; AT&T Reply at 4; Letter from Robert W. Quinn, Jr., Vice President, Federal Government Affairs, AT&T to William F. Caton, Acting Secretary, Federal Communications Commission, CC Docket No. 02-7 at 6 (filed March 25, 2002) (AT&T March 25 *Ex Parte* Letter). WorldCom makes this claim regarding Verizon's DUF rate. WorldCom Reply at 5.

⁷¹ AT&T disputed the validity of the SCIS model before the Vermont Board, claiming that AT&T's competing Hatfield model better predicted switching costs. After careful consideration, the Vermont Board rejected AT&T's claim, finding that the SCIS model, with adjustments mandated by the Vermont Board, satisfied TELRIC principles. *Vermont UNE Proposal for Decision* at 55-56, 58-60; *Vermont UNE Rate Order* at 88. In contrast, the Vermont Board adopted AT&T's competing model for predicting nonrecurring costs. *Vermont UNE Proposal for Decision* at 69-73; *Vermont UNE Rate Order* at 95.

⁷² *Vermont UNE Rate Order* at 93.

⁷³ Thus AT&T and WorldCom continually compare Verizon's Vermont switching rates to newer rates in New York and proposed rates in Massachusetts. See, e.g., AT&T Comments at 9-10, 15; AT&T Pitts Decl. at 2-3, para. 14, 7, para. 13, 11-12, paras. 21-22; AT&T Reply at 4; AT&T March 25 *Ex Parte* Letter at 6; WorldCom Comments at 3, 7; WorldCom Reply at 2, 4-5.

⁷⁴ *Bell Atlantic New York Order*, 15 FCC Rcd at 4085-86, para. 247.

how such applications could ever be approved in this context of rapid regulatory and technological change.⁷⁵

Further, when the Vermont Board adopted UNE rates in February 2000, it expressly recognized that they might require adjustment in the near future:

[A]ll rates that we set are at once final and interim, since, one, any change to them must be authorized by Board order and, two, any of them can be changed on a forward-looking basis pursuant to future Board orders based on an appropriate record We recognize, however, that this was in many ways a first effort . . . and therefore that the rates that emerge from this docket may have a limited life span. We fully expect – and encourage – [Verizon, the] Department, and other interested parties to bring to our attention changes in the industry, new functionalities, innovative modeling techniques, etc., that may warrant a reevaluation of the prices for wholesale UNEs and services.⁷⁶

Also in February 2000, the Vermont Board adopted a six percent across-the-board reduction in UNE rates, in part to compensate for the age of the data.⁷⁷ The Vermont Board also is considering its hearing officer's recommendation for a triennial review of UNE rates, which, if adopted, would result in a new rate proceeding early next year.⁷⁸ We find, for the reasons explained more fully below, that the new information on which AT&T and WorldCom rely fails to demonstrate that the Vermont Board committed any clear error. We further recognize that the Vermont Board has shown its willingness to update Vermont UNE rates as new information may warrant.

24. Another circumstance unique to the Vermont section 271 application is that Vermont is a small state with limited resources. The Vermont Board cannot be expected to undertake a continuous cycle of resource-intensive, full-blown rate proceedings, especially where no party has sought such a proceeding. If the parties bring new developments significantly affecting cost study output to the Vermont Board's attention, however, it can consider how best to address such issues, which may or may not require the undertaking of a full, new rate proceeding. Such actions would allow the Vermont Board to best weigh the significance of commenters' concerns against the burdens of a full rate proceeding without requiring the Vermont Board or smaller competitive LECs with similarly limited resources to litigate full rate cases.

⁷⁵ *AT&T Corp. v. FCC*, 220 F.3d at 617.

⁷⁶ *Vermont UNE Rate Order* at 101.

⁷⁷ *Id.* at 93.

⁷⁸ *Vermont Loop Deaveraging Order* at 9.

25. For these reasons, in the circumstances present here, where AT&T and WorldCom participated in the Vermont rate proceeding and could have raised their concerns to the Vermont Board but never did so, the Vermont Board never considered many of the complex and fact-specific questions presented for the first time in this section 271 proceeding, and commenters have presented no evidence to us that adequately demonstrates that the Vermont Board committed a clear error, we decline to overrule state factual determinations regarding specific cost study inputs that are more appropriately decided in a state rate proceeding.⁷⁹

26. *Rate Comparisons.* AT&T and WorldCom also dispute the TELRIC compliance of specific Vermont switching and DUF rates by claiming that they are higher than the comparable New York rates.⁸⁰ We are not examining Verizon's Vermont rates using our benchmark analysis, and an unfavorable comparison to New York rates, old or new, does not prove that Verizon's Vermont rates violate TELRIC principles.⁸¹ We have previously held that we will not apply our benchmark analysis to reject UNE rates arrived at through a proceeding that correctly applied TELRIC principles.⁸² Further, as both the United States Court of Appeals for the District of Columbia Circuit and the Commission have recognized, "application of TELRIC principles can result in different rates in different states."⁸³

27. *Cost Studies.* AT&T and WorldCom further claim that they cannot adequately evaluate the TELRIC compliance of Verizon's Vermont switching rates because Verizon has not made its cost studies available for examination.⁸⁴ During the Vermont rate proceeding, Verizon provided information regarding the inputs underlying its cost studies to the Vermont Board and all parties to the proceeding, including AT&T and WorldCom.⁸⁵ While the hearing officer

⁷⁹ This holding is consistent with the Commission's holding in the *Bell Atlantic New York Order* where the Commission deferred to the New York Public Service Commission on a factual dispute regarding the appropriate switch discount. *Bell Atlantic New York Order*, 15 FCC Rcd at 4083-84, para. 242; 4084-85, para. 245, *aff'd*, *AT&T Corp. v. FCC*, 220 F.2d at 617-18. See also *Verizon Rhode Island Order*, 17 FCC Rcd at 3321-22, para. 43. The parties then returned to New York with their dispute, which the New York Commission resolved in the competitive LECs favor, ultimately adopting lower switching rates. *New York PSC, Proceeding on Motion of the Commission to Examine New York Telephone Company's Rates for Unbundled Network Elements*, Case 98-1357, Order on Unbundled Network Element Rates at 20-32 (rel. Jan. 28, 2002).

⁸⁰ See, e.g., AT&T Comments at 10; AT&T Pitts Decl. at 2-3, para. 14, 7, para. 13; AT&T Reply at 4; AT&T March 25 *Ex Parte* Letter at 6; WorldCom Comments at 3, 7; WorldCom Reply at 2, 4-5.

⁸¹ See, e.g., *Verizon Pennsylvania Order*, 16 FCC Rcd at 17456-57, para. 63; *SWBT Missouri/Arkansas Order*, 16 FCC Rcd at 20746, para. 56.

⁸² *Verizon Rhode Island Order*, 17 FCC Rcd at 3320, para. 39.

⁸³ *AT&T Corp. v. FCC*, 220 F.3d at 615, upholding *Bell Atlantic New York Order*, 15 FCC Rcd at 4084, para. 244.

⁸⁴ AT&T Comments at 10; AT&T Pitts Decl. at 3-4, paras. 5-6; Letter from Amy Alvarez, District Manager—Federal Government Affairs, AT&T to William F. Caion, Acting Secretary, Federal Communications Commission, CC Docket No. 02-7; Supplemental Declaration of Catherine E. Pitts (AT&T Supplemental Pitts Decl.) at 2-4, paras. 3-7, (filed March 15, 2002); AT&T March 25 *Ex Parte* Letter at 2; WorldCom Comments at 5.

⁸⁵ Verizon Reply at App. A, Tab B, Reply Declaration of V. Louise McCarren, Patrick A. Garzillo, and Michael J. Anglin (Verizon McCarren/Garzillo/Anglin Reply Decl.) at 15, para. 40. Letter from Richard T. Ellis, Director—(continued....)

reviewing Verizon's cost information expressed regret in his Proposal for Decision that the proprietary nature of the Telcordia Technologies (now Bellcore) SCIS model prevented him from more closely examining all inputs underlying Verizon's proposed rates.⁸⁶ Verizon provided access to the SCIS model to the Vermont Department's consultant during the Vermont rate proceeding.⁸⁷ Thus, the Vermont Board determined that it had sufficient information to find that Verizon's Vermont rates satisfied TELRIC principles.⁸⁸ Significantly, AT&T did not seek access to Verizon's cost studies during the Vermont rate proceeding.⁸⁹ Further, despite the fact that Verizon has been supplying far more detail regarding its cost studies in more recent rate proceedings and section 271 applications, until now AT&T and WorldCom have not sought such additional detail for Vermont.⁹⁰ Now that they have sought it here, Verizon has provided it.⁹¹ AT&T and WorldCom present no evidence here based on Verizon's cost studies that demonstrates that the Vermont Board committed clear error when it adopted Verizon's UNE rates.

(ii) Switching Cost Study Inputs

28. We now turn to criticisms by AT&T and WorldCom of specific cost study inputs underlying the Vermont switching rates.

29. *Minute-of-Use Calculation.* AT&T and WorldCom contend that Verizon improperly derives its per-minute switching rate by spreading its total switch investment cost over switch usage on 251 business days per year rather than all 365 calendar days per year.⁹² This practice, according to AT&T and WorldCom, does not accurately spread switch investment cost over usage for the entire year, and enables Verizon to recover its switching costs in 251

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Federal Regulatory, to William Caton, Acting Secretary, Federal Communication Commission, CC Docket No. 02-7 at 3-4 (filed April 10, 2002) (Verizon April 10 *Ex Parte* Letter).

⁸⁶ *Vermont UNE Rate Proposal for Decision* at 23.

⁸⁷ Letter from Richard T. Ellis, Director—Federal Affairs, Verizon to William Caton, Acting Secretary, Federal Communications Commission, CC Docket No. 02-7 (filed March 25, 2002) (Verizon March 25 *Ex Parte* Letter); Letter from Richard T. Ellis, Director—Federal Regulatory, Verizon to William Caton, Acting Secretary, Federal Communication Commission, CC Docket No. 02-7 at 3-4 (filed April 10, 2002) (Verizon April 10 *Ex Parte* Letter).

⁸⁸ *Vermont PSB Section 271 Approval Letter* at 2; Vermont Board Comments at 27.

⁸⁹ Verizon March 25 *Ex Parte* Letter; Verizon April 10 *Ex Parte* Letter at 3-4.

⁹⁰ Verizon March 18 *Ex Parte* Letter.

⁹¹ Letter from Richard T. Ellis, Director—Federal Affairs, Verizon, to William Caton, Acting Secretary, Federal Communications Commission, CC Docket No. 02-7 (filed Feb. 26, 2002); Verizon March 18 and March 25 *Ex Parte* Letters.

⁹² AT&T Comments at 15-16; AT&T Pitts Decl. at 12-13, paras. 23-24; AT&T March 25 *Ex Parte* Letter at 10; WorldCom Comments at 6-7; WorldCom Reply at 3-4; Letter from Chris Frentrup, WorldCom to William Caton, Acting Secretary, Federal Communications Commission, CC Docket No. 02-7 (filed March 25, 2002) (WorldCom March 25 *Ex Parte* Letter).

days, turning any revenue generated on the remaining 114 days into over recovery.⁹³ Thus, according to AT&T and WorldCom, Verizon's per-minute switching rates over-recover its switch investment costs and are not TELRIC compliant. Both AT&T and WorldCom assert that Verizon should spread its costs over all 365 days per year.⁹⁴ In contrast, Verizon contends that it calculates switching costs in this way because it must size its switches to accommodate peak levels of demand.⁹⁵ Verizon further contends that using 365 days in its calculation would "substantially overstate the number of minutes over which Verizon will be able to recover switching-related costs and would result in substantial under-recovery of switching investment."⁹⁶

30. To examine these conflicting assertions, we first explain the minute of use calculation. To derive its per-minute switching rate, Verizon uses the SCIS model that it also uses to determine the sizes of the switches it will need. Verizon first determines a busy hour minute-of-use figure from actual, measured minutes of use on the busiest hour of a business day.⁹⁷ Verizon then divides the busy hour minutes of use by the total minutes of use for that business day to derive a busy hour to day ratio (BHDR). Next Verizon divides the BHDR by 251 to derive a busy hour to annual ratio (BHAR). Verizon then multiplies the BHAR by its initial investment per busy hour minutes-of-use figure to derive per-minute switching investment cost, from which it determines a per-minute switching rate.⁹⁸

31. There is no Vermont rate proceeding record for us to review on this issue because, while the Vermont Board adopted switching rates which incorporate this calculation, neither AT&T nor WorldCom raised this concern in the underlying rate proceeding. Similarly, neither AT&T nor WorldCom have subsequently asked the Vermont Board to address this issue.⁹⁹ Therefore, we do not have the benefit of any Vermont Board findings to assist us. While the record here creates some question regarding Verizon's practice, it is insufficient for us to conclude that the Vermont Board committed error in adopting rates incorporating Verizon's calculation. Moreover, because of the complexity of the formula, while fine-tuning might be merited from time to time, the record here is insufficient to determine that specific adjustments are warranted. The SCIS model is too complex to be totally reevaluated based on an allegation that one input is wrong. In the past we have declined such single substitutions in "a complex analysis that does not lend itself to simple arithmetic correction through the adjustment of a

⁹³ *Id.*

⁹⁴ AT&T Pitts Decl. at 13, para. 24; WorldCom Comments at 7.

⁹⁵ Verizon Reply at 23; Verizon McCarren/Garzillo/Anglin Reply Decl. at 11, para. 31.

⁹⁶ Verizon McCarren/Garzillo/Anglin Reply Decl. at 12, para. 33; Verizon March 18 *Ex Parte* Letter; Verizon April 10 *Ex Parte* Letter at 6.

⁹⁷ Verizon McCarren/Garzillo/Anglin Reply Decl. at 11-12, paras. 32-33.

⁹⁸ *Id.*

⁹⁹ Verizon McCarren/Garzillo/Anglin Reply Decl. at 11, para. 30; Verizon April 10 *Ex Parte* Letter at 6.

single input.”¹⁰⁰ Here, for example, to determine that it is appropriate to divide the BHDR by 365 days instead of 251 days to reflect weekend and holiday usage would also require us to make corresponding changes to the BHDR to reflect the correct relationship between the busy hour minutes on a busy day to the busy hour minutes on an average day. The record here is insufficient for us to make such further changes, and they are precisely the kind of fact-specific findings that are best made by the state commission as an initial matter.¹⁰¹ The Vermont Board has expressed a willingness to consider the effect of developments in, among other things, modeling techniques, when parties bring them to its attention. In particular, the Vermont Board noted that the proceeding adopting Verizon’s switching rates was “in many ways a first effort . . . and therefore that the rates that [emerged] from [that] docket may have a limited life span.”¹⁰² Accordingly, we find that the Vermont Board committed no error with regard to this input on this record.¹⁰³

32. *Intraswitch Calls.* WorldCom claims that Verizon’s switching rates are not TELRIC compliant because Verizon charges for both originating and terminating minutes of use on intraswitch calls.¹⁰⁴ WorldCom did not raise this issue in the Vermont rate proceeding, waiting to argue the question during the Vermont Board’s consideration of Verizon’s section 271 application. WorldCom failed to provide evidence sufficient to demonstrate that Verizon should change its practice, and, therefore, the Vermont Board declined to require Verizon to do so.¹⁰⁵ The record here is also insufficient for us to answer such a fact-specific question, which, as discussed above, is best resolved in a state rate proceeding rather than a section 271 review. Whether or not recovery of both originating and terminating minutes of use on intraswitch calls is a violation of TELRIC principles or clear error is a question that turns on whether the practice is inconsistent with how the BOC derives the rates for these minutes of use. WorldCom has not

¹⁰⁰ *Bell Atlantic New York Order*, 15 FCC Rcd at 4085, para. 245, *aff’d*, *AT&T Corp. v. FCC*, 220 F.3d at 617. See also, *Sprint v. FCC*, 274 F.3d at 559.

¹⁰¹ Further, the positions asserted by AT&T and WorldCom have evolved on this issue, and they have sometimes made inconsistent statements regarding the appropriate adjustment. See, e.g., *New York PSC, Proceeding on Motion of the Commission to Examine New York Telephone Company’s Rates for Unbundled Network Elements*, Case 98-1357, Order on Unbundled Network Element Rates at 38 (rel. Jan 28, 2002); WorldCom March 25 *Ex Parte* Letter; New Jersey BPU, *Review of Unbundled Network Elements, Rates, Terms, and Conditions of Bell Atlantic New Jersey, Inc.*, Docket No. TO00060356, Decision and Order at 122 (rel. March 6, 2002). See also AT&T’s assertion, without factual support, that in Vermont it is likely that weekend and holiday call volumes are the same as business day call volumes due to Internet usage. AT&T March 25 *Ex Parte* Letter at 10.

¹⁰² *Vermont UNE Rate Order* at 101.

¹⁰³ We do not address whether we would reach a different conclusion based on different evidence presented in a different section 271 proceeding.

¹⁰⁴ WorldCom Comments at 7; WorldCom Reply at 4; WorldCom March 25 *Ex Parte* Letter. An intraswitch call requires a single switch to originate and terminate, such as a typical call within the same exchange. An interswitch call requires more than one switch to originate and terminate.

¹⁰⁵ Vermont Comments at 27. Verizon asserts in this proceeding that it “has to perform both [originating and terminating] functions on an intra-switch call, and therefore incurs both costs for such calls, just as it does for an inter-switch call.” Verizon Reply at 23; Verizon McCarran/Garzilla/Anglin Reply Decl. at 13-15, paras. 35-39.

demonstrated such an inconsistency here, and has not shown that the Vermont Board committed clear error by allowing Verizon to charge an inappropriate rate. Indeed, in rate proceedings where this issue was fully litigated, state commissions have reached different conclusions on whether or not to allow charging for originating and terminating minutes of use on intraswitch calls.¹⁰⁶ Thus, WorldCom has made no demonstration that the Vermont Board committed clear error when it allowed Verizon to charge for originating and terminating minutes of use on intraswitch calls. We do not address here whether, on the basis of different evidence, we would reach a different conclusion when considering a different section 271 application.

33. *Switch Discounts.* The Vermont Board required Verizon to assume that Verizon would receive only the larger discounts that switch vendors offer on new switches (100 percent new switch discount), rather than any mix of larger new switch discounts and smaller discounts offered for growth additions to existing switches.¹⁰⁷ AT&T claims that if Verizon had properly applied the 100 percent new switch discount when it filed new rates to comply with the Vermont Board's February 2000 *UNE Rate Order*, Verizon's switching rates would be lower than New York switching rates.¹⁰⁸ AT&T concedes that Verizon's Vermont switch investment per line decreased substantially from \$400 to \$160, but complains that the \$160 figure is still too high because New York switch investment per line is \$105.¹⁰⁹ According to the Commission's Synthesis Model,¹¹⁰ Vermont non-loop costs are approximately 55 percent greater than New York non-loop costs, which could explain why Verizon's Vermont switch investment per line of \$160 is roughly 55 percent greater than Verizon's New York switch investment per line of \$105. Further, as we have stated, a mere difference in Vermont switching rates and another state's switching rates does not demonstrate that the Vermont Board committed clear error in adopting the switch discount.

34. Indeed, AT&T alleges no such error, and we find none. The Vermont Board adopted the switch discount AT&T advocated in the Vermont rate proceeding, and that AT&T and WorldCom have advocated in other section 271 proceedings.¹¹¹ Specifically, the Vermont

¹⁰⁶ New York does not allow Verizon to charge for terminating minutes of use on intraswitch calls, but Rhode Island and Pennsylvania do. See WorldCom Comments at 7; WorldCom Reply at 4; Verizon Reply at 22.

¹⁰⁷ Vermont *UNE Proposal for Decision* at 27-28; Vermont *UNE Rate Order* at 88-90. For further discussion of new and growth addition switch discounts, see Verizon Rhode Island Order, 17 FCC Rcd at 3318, para. 34.

¹⁰⁸ AT&T Comments at 11-12; AT&T Pitts Decl. at 3-8, paras. 6-14; AT&T Reply at 5; AT&T March 25 *Ex Parte* Letter at 7; Letter from David L. Lawson, Sidley & Austin to William F. Caton, Acting Secretary, Federal Communications Commission, CC Docket No. 02-7 at 2-3 (filed April 15, 2002) (AT&T April 15 *Ex Parte* Letter); Letter from David L. Lawson, Sidley & Austin to Marlene H. Dortch, Federal Communications Commission, CC Docket No. 02-7 (filed April 17, 2002). See also Verizon Rhode Island Order, 17 FCC Rcd at 3318, para. 34.

¹⁰⁹ AT&T Pitts Decl. at 4-5, para. 8; AT&T March 25 *Ex Parte* Letter at 8. See also AT&T April 15 *Ex Parte* Letter at 2-3.

¹¹⁰ The Commission's Synthesis Model is used to compare costs of UNE rate elements among the several states to determine Universal Service Fund (USF) support.

¹¹¹ Vermont *UNE Rate Order* at 88-90. See also Verizon Rhode Island Order, 17 FCC Rcd at 3318, para. 34.

Board ordered Verizon to assume that it would receive the greater new switch discounts on 100 percent of its switches, an assumption which resulted in lower switch costs and lower switching rates.¹¹² The Vermont Board adopted Verizon's new switching rates, which presumably incorporated this assumption, in April 2000. Here, AT&T does not complain that the Vermont Board adopted a flawed input. AT&T merely asserts that it cannot verify that Verizon's Vermont switching rates reflect a 100 percent new switch discount. If AT&T has evidence indicating that Verizon failed to apply the correct discount, it should bring this evidence to the Vermont Board, which can compel Verizon to respond to such evidence and commence an enforcement action if necessary.¹¹³

35. *Switch Installation Factor.* AT&T and WorldCom claim that Verizon's switch installation factor of 54.4 percent is too high to produce TELRIC compliant switching rates.¹¹⁴ In the Vermont rate proceeding, Verizon stated that its installation factor was based on its actual cost of installing its switches itself.¹¹⁵ The Vermont Board accepted Verizon's installation factor because, while AT&T alleged that it was too high, AT&T presented no alternative installation factor or evidence to support a different factor.¹¹⁶ The only new evidence that AT&T and WorldCom now provide is that Verizon's Vermont installation factor is higher than installation factors adopted by state commissions in other Verizon states in more recent rate proceedings. As we have stated, mere comparisons are insufficient to demonstrate a TELRIC violation.¹¹⁷

¹¹² *Vermont UNE Rate Order* at 88-90.

¹¹³ Again, using only the comparative difference in Vermont and New York switching rates as evidence, AT&T claims that Verizon's switching rates do not reflect the lower prices that Verizon receives on newer Nortel switches or through the competitive bid process. AT&T Pitts Decl. at 6-7, paras. 12-13; AT&T March 25 *Ex Parte* Letter at 8; AT&T April 15 *Ex Parte* Letter at 2-3. Verizon counters that it does not and will not use Nortel switches in Vermont, and that the switch prices used to calculate its Vermont switching rates were based on a competitive bid process. Verizon March 18 *Ex Parte* Letter. See also Letter from Richard T. Ellis, Director—Federal Affairs, Verizon to Marlene H. Dortch, Acting [sic] Secretary, Federal Communications Commission, CC Docket No. 02-7 (filed April 16, 2002). AT&T's evidence is insufficient to demonstrate that the Vermont Board committed error or that Verizon failed to implement properly the Board's order regarding switch discounts.

¹¹⁴ AT&T Comments at 14-15; AT&T Pitts Decl. at 11-12, para. 21; AT&T Reply at 5; AT&T March 25 *Ex Parte* Letter at 10; WorldCom Reply at 3; WorldCom March 25 *Ex Parte* Letter. The switch installation factor is a percentage amount of the original switch price added to the switch price to recover the costs of installation.

¹¹⁵ Verizon Reply at 21. Verizon adds here that its installation costs in West Virginia, a state whose network configuration and demographics are similar to Vermont's, are higher, even though its switch vendor installs the switch. *Id.* See also Verizon April 10 *Ex Parte* Letter at 8.

¹¹⁶ *Vermont UNE Proposal for Decision* at 25.

¹¹⁷ WorldCom notes that we expressed concern about Verizon's installation factor of more than 60 percent in the *Verizon Rhode Island Order*. WorldCom Reply at 3. The Rhode Island Commission had found Verizon's basis for that factor to be unreliable and had specifically directed Verizon to provide better evidence in an upcoming new rate proceeding. This finding, coupled with the fact that the 60 percent installation factor, a multiplier, was applied to switch costs based on an assumption of 100 percent smaller growth addition switch discounts, led to our concern. See *Verizon Rhode Island Order*, 17 FCC Rcd at 3318-19, para. 35. Here the installation factor is not only lower, but the switch discount problem that it magnified and that we found to violate TELRIC principles is absent.

Therefore, based on the record before us, we are unable to determine that the Vermont Board committed a clear TELRIC error in accepting Verizon's installation factor.¹¹⁸ We do not determine whether we would reach a different conclusion based on different evidence presented in a different section 271 application.

36. *Other Inputs.* AT&T disputes here the TELRIC compliance of Verizon's cost study inputs for integrated digital loop carrier and switching-related fill factors.¹¹⁹ While AT&T states that these loop issues affect port rates and, therefore, switching rates, it provides no information to enable us to assess the extent to which these alleged flaws affect switching rates, or to determine appropriate alternative inputs. With respect to integrated digital loop carrier, Verizon responds, as it did when AT&T raised this issue before the Vermont Board, that it assumes TR-008 integrated digital loop carrier because the allegedly more efficient GR-303 carrier "places substantial limits on the number of carriers that can operate from a single remote terminal."¹²⁰ AT&T presents insufficient evidence here on this state-specific factual issue for us to conclude that the Vermont Board committed clear error in adopting this approach. With respect to switching-related fill factors, an issue that AT&T never raised before the Vermont Board, AT&T asserts merely that Verizon's assumed factors of 72 percent for IDLC lines and 81 percent for analog lines are too low.¹²¹ AT&T's only evidence to support this claim is that "the Synthesis Model uses a 94 percent fill factor."¹²² This record is insufficient for us to determine whether AT&T is making a valid comparison between Verizon's Vermont fill factors and the Synthesis Model fill factors, which we have indicated should not be used for setting rates.¹²³ Similarly, the record is insufficient for us to make a fact-specific determination of the appropriate Vermont fill factors, or conclude that the Vermont Board committed clear error when it adopted switching rates that incorporate Verizon's fill factors. Finally, again with no explanation of these rate elements or their effect on switching rates, AT&T argues that Verizon failed to make Vermont Board-ordered adjustments in rates for Integrated Services Digital Network (ISDN) BRI ports and ISDN trunk Primary Rate Interfaces (PRIs).¹²⁴ Verizon counters that it made the appropriate reductions when it filed new rates in April 2000, to comply with the Vermont

¹¹⁸ AT&T also claims that Verizon's power factor is too high because it is higher than New York and Massachusetts power factors. AT&T Comments at 15; AT&T Pitts Decl. at 12, para. 22. As we have stated, the mere fact that another state's power factor is lower does not demonstrate that the Vermont Board committed clear TELRIC error when it adopted rates incorporating Verizon's power factor.

¹¹⁹ AT&T Comments at 13-14; AT&T Pitts Decl. at 9-10, para. 17. While integrated digital loop carrier prices would normally be considered as part of loop pricing, AT&T appears to be discussing the interface between the integrated digital loop carrier and the switch, which is part of switch pricing.

¹²⁰ Verizon McCarran/Garzillo/Anglin Reply Decl. at 6, para. 17.

¹²¹ AT&T Comments at 14; AT&T Pitts Decl. at 10, para. 19.

¹²² *Id.*

¹²³ *Bell Atlantic New York Order*, 15 FCC Rcd at 4085, para. 245; *SWBT Kansas/Oklahoma Order*, 16 FCC Rcd. at 6277, para. 84.

¹²⁴ AT&T Comments at 13; AT&T Pitts Decl. at 8, para. 15.

Board's *UNE Rate Order*.¹²⁵ If AT&T develops further support for its claim that Verizon has failed to comply with the Vermont Board's *UNE Rate Order*, it should bring this evidence to the Vermont Board. In conclusion, with respect to all these inputs, we note that, despite the fact that Vermont switching rates incorporating these inputs have been in effect for almost two years, AT&T has not complained about them to the Vermont Board, but has waited to challenge them here in our review of Verizon's Vermont section 271 application. At this late date and without further evidence, we cannot substitute the findings AT&T urges for those of the Vermont Board, or conclude that the Vermont Board committed clear error in adopting switching rates incorporating these assumptions.

(iii) DUF Rate

37. AT&T and WorldCom complain that Verizon's Vermont DUF rate is based on outdated data and, because it is four times higher than the more recent New York DUF rate, too high to be TELRIC compliant.¹²⁶ AT&T and WorldCom did not challenge the DUF rate in the Vermont rate proceeding, and have not asked Verizon to update its Vermont DUF rate or the Vermont Board to require Verizon to update its Vermont DUF rate.¹²⁷ As we stated above, mere evidence that the data underlying a rate is old or that a Vermont rate is higher than the comparable New York rate does not demonstrate that the Vermont Board committed any clear error when it adopted the rate. Further, AT&T and WorldCom have presented no evidence to allow us to make a state-specific determination of the appropriate Vermont DUF rate, a determination more appropriately made by the Vermont Board. We also note that, while the Vermont DUF rate is higher than the New York DUF rate, WorldCom's own compilation of DUF rates shows even higher DUF rates in some other section 271-approved states.¹²⁸ Therefore, we conclude that the Vermont Board did not commit any error when it adopted Verizon's DUF rate.

38. For the foregoing reasons, we conclude that Verizon has demonstrated that its Vermont UNE rates satisfy the requirements of checklist item two.¹²⁹

¹²⁵ Verizon McCarren/Garzillo/Anglin Reply Decl. at 3-4, para. 10.

¹²⁶ AT&T Comments at 17-18; AT&T Lieberman Decl. at 11-12, paras. 29-31; AT&T Reply at 4; AT&T March 25 Ex Parte Letter at 5-6; WorldCom Reply at 5. See also, AT&T April 9 Ex Parte Letter.

¹²⁷ Verizon Reply at 23.

¹²⁸ For example, Massachusetts and Rhode Island DUF rates are higher than Vermont DUF rates. WorldCom Reply at Attach. 1.

¹²⁹ AT&T also argues that Verizon's Vermont UNE rates create a price squeeze which makes them discriminatory in violation of checklist item two. AT&T Comments at 18-20; AT&T Reply at 6. We discuss this claim, which has not been raised to the Vermont Board, at Section IV.A. *infra*.

2. Operations Support Systems

39. Based on the evidence in the record, we find, as the Vermont Board did,¹³⁰ that Verizon provides nondiscriminatory access to its operations support systems (OSS) in Vermont.¹³¹ As we discuss below, Verizon has shown that evidence concerning its OSS in Massachusetts, which the Commission previously found satisfy the requirements of checklist item 2, should be considered in this proceeding.¹³² No commenter has raised any concerns with Verizon's Vermont OSS or with Verizon's reliance on evidence concerning its OSS in Massachusetts in this proceeding. We therefore discuss here only the relevance of Verizon's Massachusetts systems, and those performance areas involving minor discrepancies that require explanation.

a. Relevance of Verizon's Massachusetts OSS

40. Consistent with our precedent, Verizon relies in this application on evidence concerning its Massachusetts OSS.¹³³ Specifically, Verizon asserts that its OSS in Massachusetts are substantially the same as the OSS in Vermont and, therefore, evidence concerning its OSS in Massachusetts is relevant and should be considered in our evaluation of the Vermont OSS.¹³⁴ To support its claim, Verizon submits a report from Pricewaterhouse Coopers (PwC).¹³⁵ PwC evaluated the five OSS domains made available to support competing LEC activity in Vermont and Massachusetts in order to attest to Verizon's assertions that its interfaces in Massachusetts and Vermont are identical, and the personnel and work center facilities supporting its OSS "employ the same processes" in Vermont as in Massachusetts.¹³⁶ Verizon also submits declaratory evidence that its "interfaces, gateway systems, and underlying OSS used for Vermont are the same interfaces, gateway systems, and underlying OSS that serve Massachusetts and the other New England states."¹³⁷ We note that no commenter has suggested that evidence of its Massachusetts OSS should not be considered in this proceeding. We find that Verizon, through the PwC report and its declarations, provides evidence that its OSS in Massachusetts are

¹³⁰ See Vermont Board Comments at 22.

¹³¹ See Verizon Application at 56-69; *see generally* Verizon Application App. A, Vol. 2, Joint Declaration of Kathleen McLean and Raymond Wierzbicki (Verizon McLean/Wierzbicki Decl.).

¹³² See *Verizon Massachusetts Order*, 16 FCC Rcd at 9010-52, paras. 43-116; *see also Verizon Rhode Island Order*, 17 FCC Rcd at 3329-35, paras. 58-71.

¹³³ See Appendix D, para. 32.

¹³⁴ Verizon Application at 57-58; Verizon McLean/Wierzbicki Decl. at paras. 5, 8-20, 26, 29, 35, 39, 47, 67, 80, 82-86, 98, 111, 113, 130, and Tab 2.

¹³⁵ See Verizon Application App. C, Tab 1, part a, Joint Declaration of Russell Sapienza and Catherine Bluvol, in *Verizon New England Inc., d/b/a Verizon Vermont, Section 271 of the Telecommunications Act of 1996 Compliance Filing*, Vermont Public Service Board, Attach. (filed Aug. 7, 2001) (PwC Report).

¹³⁶ See PwC Report at 7-9.

¹³⁷ Verizon McLean/Wierzbicki Decl. at para. 11; *see id.* paras. 12-16.

substantially the same as the OSS in Vermont and, therefore, evidence concerning its OSS in Massachusetts is relevant and should be considered in our evaluation of Verizon's OSS in Vermont. Verizon's showing enables us to rely, for instance, on findings relating to Verizon's OSS from the *Verizon Massachusetts Order* in our analysis of Verizon's OSS in Vermont. In addition, we can examine data reflecting Verizon's performance in Massachusetts where low volumes in Vermont yield inconclusive or inconsistent information concerning Verizon's compliance with the competitive checklist.

b. Order Accuracy

41. We find that Verizon manually processes competing carriers' orders accurately, affording them a meaningful opportunity to compete. The Vermont Board has followed the lead of the New York Commission in changing the performance metrics relating to order accuracy. Verizon is no longer required to report under metric OR-6-02, which measured the percentage of accurately populated fields in a random sample of orders.¹³⁸ Verizon will, however, continue to report the percentage of actual orders that it processes accurately, and the percentage of order confirmations that it sends accurately. The Vermont Board has also adopted the New York Commission's change to the accuracy standard from 95 percent of confirmations without error to not more than 5 percent of confirmations resent due to Verizon error.¹³⁹ We find that Verizon's performance data reflect that it manually process orders for UNE loops consistently within these benchmarks.¹⁴⁰ Verizon processed orders for UNE-Platform generally within the established benchmark, with exceptions in October and November.¹⁴¹ Verizon processed between 90 and 97 percent of resale orders accurately, and sent accurate confirmations to competing carriers.¹⁴² Given the upward trend in Verizon's performance, and in the absence of comment on the issue or other evidence showing that the relatively few instances of inaccurate orders are competitively significant, we find that Verizon processes orders accurately enough to provide competing LECs a meaningful opportunity to compete.¹⁴³

¹³⁸ New York PSC October Order at Attach. 1, at 22.

¹³⁹ See Verizon Application App. I, Vol. 2, Tab 4, State of Vermont Carrier-to-Carrier Guidelines Performance Standards and Reports at 38-39 (Jan. 11, 2002).

¹⁴⁰ See OR-6-01-3332 (% accuracy - orders) (metric in effect September and October); OR-6-01-3331 (% accuracy - orders) (metric in effect November, December, and January); OR-6-03-3332 (% accuracy - LSRC) (metric in effect September and October); OR-6-03-3331 (% accuracy - LSRC) (metric in effect starting in November).

¹⁴¹ See OR-6-01-3143 (% accuracy - orders) (98%, 93%, 90%, and 100%). Data for January were "under review" for this metric due to a programming error. See Letter from Richard T. Ellis, Director - Federal Affairs, Verizon, to William Caton, Acting Secretary, Federal Communications Commission, CC Docket No. 02-7 (filed Mar. 18, 2002). See OR-6-03-3143 (% accuracy - LSRC) (achieving benchmark every month).

¹⁴² See OR-6-01-2000 (% accuracy - orders) (93%, 94%, 90%, 93%, and 97%); OR-6-03-2000 (100%, 100% for September and October under old standard of 95% accuracy, and 0% for November, December, and January under new standard of not more than 5% resent due to Verizon error).

¹⁴³ Compare data in nn. 141 & 142 with *Verizon Massachusetts Order*, 16 FCC Rcd at 9032, para. 81 n.251.

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