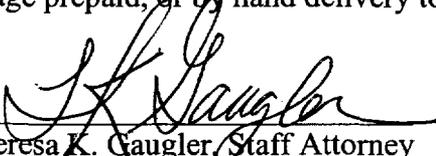


CERTIFICATE OF SERVICE

I, Teresa K. Gaugler, do hereby certify that on this 16th day of October, 2000, copies of the foregoing Comments of the Association for Local Telecommunications Services (ALTS) were served via first class mail, postage prepaid, or by hand delivery to the parties listed below.


Teresa K. Gaugler, Staff Attorney
Association for Local
Telecommunications Services

Eric Einhorn
Common Carrier Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Rebecca Beynon
Legal Advisor to Comm'r Furchtgott-Roth
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Kathy Farroba
Common Carrier Bureau, Policy Division
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Kyle Dixon
Legal Advisor to Commissioner Powell
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Michele Carey, Chief
Common Carrier Bureau, Policy Division
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Cathy Carpino
Massachusetts Department of
Telecommunications & Energy (DTE)
One South Station
Second Floor
Boston, MA 02110

Kathy Brown
Legal Advisor to Chairman Kennard
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Michael E. Glover
Verizon
1320 North Court House Road
8th Floor
Arlington, VA 22201

Jordan Goldstein
Legal Advisor to Commissioner Ness
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Janice Myles (12 copies)
Common Carrier Bureau, Policy Division
Federal Communications Commission
445 12th Street, SW
Room 5-B145
Washington, DC 20554

Sarah Whitesell
Legal Advisor to Commissioner Tristani
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

International Transcription Service (1 copy)
445 12th Street, S.W., CY-314
Washington, D.C. 20554

Magalie Roman Salas (original + 1 copy)
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Exhibit A

- Digital Broadband Communications' Declarations

**DECLARATION OF
B. KELLY KISER**

I, B. Kelly Kiser, hereby declare under penalty of perjury of the laws of the United States of America, that the following statements are true and correct to the best of my knowledge, information, and belief:

1. I am the Vice President – Legal and Regulatory Affairs for Digital Broadband Communications, Inc. (“Digital Broadband”). I am authorized to make this declaration on behalf of Digital Broadband.

2. Digital Broadband, whose principal place of business is in Waltham, Massachusetts, is a Broadband Communications Provider that provides retail high-speed, broadband access to small-to-medium size businesses and to enterprise corporations seeking a broadband solution for their employee teleworkers. Unlike many other CLECs that offer Digital Subscriber Service (“DSL”), we do not provide wholesale services.

3. I am responsible for all of Digital Broadband’s federal, state, and local regulatory affairs, and for legal issues affecting the company’s operations. As a result, I have regular interaction with Verizon New England, Inc. (“Verizon”) on a variety of matters relevant to this Declaration.

4. Digital Broadband is participating in this proceeding in order to provide the Federal Communications Commission with evidence responding to certain claims and statements made by Verizon in its application for authorization under Section 271 of the Communications Act to provide in-region, interLATA service in the state of Massachusetts (the “Application”), filed September 22, 2000. This evidence supports Digital Broadband’s conclusion that Verizon’s

Application should be denied, because Verizon has not fully satisfied all of its obligations under Section 271.

5. As set forth in the accompanying Declarations of Theresa M. Landers, Vice President – Network Services, Steve Melanson, Vice President – Customer Operations, and John McMillan, Vice President – Field Operations, Digital Broadband has conducted an extensive review of its data regarding Verizon’s provisioning of interconnection and unbundled network elements (“UNEs”) as requested by Digital Broadband. For the periods reviewed by Digital Broadband, that evidence shows the following:

Verizon Routinely Misses Its Committed Dates for Provisioning Local Loops. As set forth in the Declaration of Mr. Melanson,

- Only 33% of DSL loop orders get FOC responses from Verizon within the standard interval, and nearly 25% of the orders received FOC responses three or more weeks beyond the standard interval. Moreover, Verizon delivered only about 65% of DSL orders on its committed date. *See* Declaration of Steve Melanson, Attachment 1.
- Verizon’s performance provisioning DS1 orders is even worse than its provisioning of DSL orders. Less than 10% of DS1 orders received FOC responses within the standard interval and less than 50% of orders delivered on the committed date. *See* Declaration of Steve Melanson, Attachment 2.

Verizon Provisions Loops and IOF that Are of Poor Quality. As set forth in the Declarations of Mr. McMillan and Ms. Landers,

- Nearly 20% of DSL loop orders pass initial testing but fail subsequent testing, and more than 50% of those failures are due to Verizon. *See* Declaration of John McMillan, Attachment 1.
- The failure rate for DS1s has been even higher than for DSL loops, with more than 50% not passing initial testing. *See* Declaration of John McMillan, Attachment 1.
- A large number of loop orders fail at the time Digital Broadband installs equipment at the customer premises, and in more than 50% of these instances the failures are due to Verizon. This often happens because the loop as initially tested is altered by Verizon

in such a manner that the loop as initially tested no longer is available. See Declaration of John McMillan, p. 3.

- Nearly all DS3s provisioned by Verizon in Massachusetts since April did not work properly on the turnover date, and orders frequently require multiple dispatches before Verizon completes the order and delivers a working DS3 connection. See Declaration of Theresa M. Landers, Attachment 1.

Verizon Routinely Misses Its Committed Dates for Provisioning IOF. As set forth in

the Declaration of Ms. Landers,

- In Massachusetts, Verizon has completed less than 25% DS3 IOF orders by the committed date. See Declaration of Theresa M. Landers, Attachment 1.
- Verizon routinely gives FOC dates far beyond the standard provisioning interval – in some cases, up to 15 months after the order date – and just as routinely changes FOC dates, with delays of up to three or four months not unusual. And, Verizon refuses to dispatch to correct a non-functioning DS3 circuit unless Digital Broadband agrees to move the due date out at least five days. As a result, Digital Broadband is forced to accept the circuit and then call in a trouble, because Verizon will respond to a trouble request on an installed circuit within a four-hour interval, rather than five days. In this manner, Verizon is able to manipulate performance reports it files with regulators. See Declaration of Theresa M. Landers, p. 5.

6. Clearly, Verizon's claims of compliance with both its local loop and IOF obligations (see Verizon Application at pp. 16-30) are greatly exaggerated. In light of substantial evidence of Verizon's poor performance on these critical Checklist items, Verizon cannot be found to be in compliance with its Section 271 obligations.

Verizon's Provision of OSS Is Discriminatory and OSS Quality Is Poor. As set forth in the Declarations of Mr. Melanson and Ms. Landers,

- A substantial number of loops cannot be qualified for DSL service because the databases Verizon makes available to its competitors are inferior to data in Verizon's possession. Declaration of Steve Melanson, p. 4; Declaration of Theresa M. Landers, p. 6.
- Verizon refuses to make available Operations Support Systems – including the Loop Facilities Automated Control System ("LFACS") in the same time and manner as it available to Verizon.

Verizon Refuses to Make Available Its OSS in the Same Time and Manner as that Information Is Available to Verizon.

7. Digital Broadband testified before the Massachusetts Department of Telecommunications and Energy (“DTE”) in DTE Docket No. 98-57 (Phase III) and DTE Docket No. 99-271¹ regarding Verizon’s failure to make available OSS – specifically, databases containing loop qualification information – in the same time and manner as that information is available to Verizon, as well as the poor quality of Verizon’s OSS generally. This evidence is relevant to Verizon’s claims of checklist compliance, and Digital Broadband urges the Commission to review the complete record in DTE 98-57 Phase III, in which the DTE investigated Verizon’s proposed rates, terms, and conditions for line sharing and xDSL in Massachusetts. Verizon has placed that evidence before the Commission in connection with its Application.²

8. Checklist Item 2³ requires Verizon to provide unbundled access to certain network elements, including OSS.⁴ Among other things, OSS consists of pre-ordering and ordering

¹ See Verizon Application, Appendix E, Record of Massachusetts DTE Docket No. 98-57 (Interconnection Tariff Proceeding), Vol. 212, Tab 1 (Direct Testimony of Digital Broadband Communications, Inc.; see also generally *id.* at Vol. 24, Tab 1 (Transcript of Hearing Aug. 1 and Aug. 2, 2000; Transcript of Oral Argument Held Sept. 8, 2000 (omitted from Verizon’s Appendix B, Record of DTE Docket No. 99-271).

² See Verizon Application, Appendix E, Record of Massachusetts DTE Docket No. 98-57 (Interconnection Tariff Proceeding).

³ 47 U.S.C. § 271(c)(2)(B)(ii).

⁴ 47 C.F.R. § 51.313(c).

functions supported by an ILEC's databases and information.⁵ Based on its record of providing access to its pre-ordering OSS, Verizon has not satisfied Checklist Item 2.

9. The FCC's definition of "pre-ordering information" specifically includes "loop qualification information," which includes "the composition of the loop material..., location and type of any electronics or any other equipment on the loop..., the loop length..., the wire gauge(s) of the loop; and the electrical parameters of the loop, [all of] which may determine the suitability of the loop for various technologies."⁶ "Nondiscriminatory"⁷ access means the information must be provided within the same time and manner that it is made available to Verizon's personnel,⁸ and that "the quality of both the network element and access to the element

⁵ 47 C.F.R. § 51.319(g).

⁶ 47 C.F.R. § 51 defines "pre-ordering" and "ordering" as including "the exchange of information between telecommunications carriers about: current or proposed customer products and services; or unbundled network elements, or some combination thereof. *This information includes loop qualification information, such as the composition of the loop material, including but not limited to: fiber optics or copper; the existence, location and type of any electronic or other equipment on the loop, including but not limited to, digital loop carrier or other remote concentration devices, feeder/distribution interfaces, bridge taps, load coils, pair-gain devices, disturbers in the same or adjacent binder groups; the loop length, including the length and location of each type of transmission media; the wire gauge(s) of the loop; and the electrical parameters of the loop, which may determine the suitability of the loop for various technologies.*"

⁷ 47 U.S.C. § 251(c)(3).

⁸ *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, Third Report and Order, 15 FCC Rcd 3696, 3886-87 ¶¶ 430-31 (1999) ("UNE Remand Order").

must be (1) equal as between all carriers requesting access to that element,⁹ and (2) to the extent technically feasible, at least equal in quality as the ILEC provides to itself.¹⁰

10. Verizon is required to “provide ... access to *the same detailed information about the loop that is available to [it]*,” so that [a CLEC] can make an independent judgment about whether the loop is capable of supporting the advanced services equipment the [CLEC] intends to install.... [A]t a minimum, [Verizon] must provide [CLECs] the same underlying information that [Verizon] has in any of its own databases or other internal records,” including the information listed in the definition of “pre-ordering and ordering.”¹¹ Verizon may not “filter or digest” its loop qualification information.¹²

11. Verizon has discriminated and continues to discriminate against CLECs in the information it makes available. Specifically, Verizon refuses to make its LFACS database directly available to CLECs. However, Verizon has *admitted* that LFACS contains substantial information CLECs need to determine whether an individual loop is qualified.¹³ Adding insult to injury is that when Digital Broadband resorts to manual loop ordering, as Mr. Melanson

⁹ 47 C.F.R. § 51.311(a).

¹⁰ 47 C.F.R. § 51.311(b).

¹¹ *UNE Remand Order*, 15 FCC Rcd 3885, ¶ 427.

¹² *Id.* ¶¶ 427-28.

¹³ See Verizon Application, Appendix E, *Record of Massachusetts DTE Docket No. 98-57 (Interconnection Tariff Proceeding)*, Vol. 24, Tab 1, Transcript of Hearing Held August 2, 2000 (Mr. White), p. 493; see also *id.* at Vol. 19, Tab 1, BA-MA’s Responses to Rhythms/Covad Information Requests (submitted 6/22/00); see also Ex. 29, BA-MA Reply to RL/CVD 1-33 (listing information contained in LFACS, including location and type of electronics, location of bridged taps, spare pair availability, cable and pair identification, and other information).

described in his Declaration – which it must frequently do because of the unreliability of the mechanized databases – part of the “manual” procedure Verizon performs is a check of the mechanized LFACS database. Verizon admits this.¹⁴ Moreover, Verizon, in the line sharing and xDSL tariff proceeding before the DTE (DTE Docket No. 98-57, Phase III), attempted to impose substantially higher charges for so-called “manual” procedures than for mechanized procedures – charges the DTE rejected.¹⁵

12. Verizon has claimed that “[t]he loop qualification database [it makes available to CLECs] is distinguishable from the LFACS database.”¹⁶ This just states the obvious fact that there are two databases. Verizon has ignored the more pertinent point, which is that it is required to make available the information in LFACS in the same time and manner as that information is available to Verizon. While Verizon *could* do so by giving CLECs direct access to LFACS, and without having to enter into the LQD the same information that is in LFACS, it need not do so. However, it must *either* make LFACS, *or* the information that is in LFACS, available in order to comply with its OSS obligations. It refuses to do either.

¹⁴ See Verizon Application, Appendix E, *Record of Massachusetts DTE Docket No. 98-57 (Interconnection Tariff Proceeding)*, Vol. 24, Tab 1, Transcript of Hearing Held August 2, 2000 (Mr. White), pp. 496-497 (stating that LFACS is not directly available to CLECs, but is “indirectly” available through manual qualifications and engineering queries).

¹⁵ See Verizon Application, Appendix L, Selected Documents, Vol. 1, Tab 1, DTE Tariff No. 17; see Order released September 29, 2000 by the Massachusetts Department of Telecommunications and Energy, Investigation by the Department on Its Own Motion as to the Propriety of the Rates and Charges Set Forth in M.D.T.E. No. 17, DTE 98-57 Phase III.

¹⁶ See Verizon Application, Appendix K, *Supplemental Materials from Appendices B through H*, Vol. 6, Tab 1, Supplement to Appendix E (submitted September 1, 2000) (DTE 98-57 Phase III, Verizon Reply Brief), p. 17 n.2.

13. Verizon has not complied with its obligation to provide access to loop qualification information, which requires non-discriminatory access to the same information that is available to Verizon, in “substantially the same time and manner.”¹⁷ Verizon’s stark refusal to allow access to the automated LFACS and other databases with information that is needed to determine whether a loop is capable of providing services Digital Broadband may offer clearly violates the Communications Act and the Commission’s rules.¹⁸

14. The Commission has found that “the provision of access to OSS functions and the information they contain is integral to the ability of competing carriers to enter the local exchange market,” and that a CLEC that lacks access to an ILEC’s OSS “will be severely disadvantaged ... from fairly competing.”¹⁹ Digital Broadband must have access to this information in order to determine whether it is possible to provide a particular service to a particular customer. Moreover, Verizon *requires* CLECs to pre-qualify a loop before placing an order. Therefore, timely access to accurate information is critically important, because of the cost and delay associated with inaccurate information. Verizon’s loop qualification access performance and its denial of LFACS therefore are directly relevant to the Commission’s

¹⁷ *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket No. 98-147, *Third Report and Order*, and *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, *Fourth Report and Order*, 14 FCC Rcd 20912, 20986 ¶ 172 (1999) (“*Line Sharing Order*”).

¹⁸ Before the DTE, Verizon asserted that “the principal loop qualification information that is available from the [loop qualification] database and would be of interest to CLECs is the total metallic loop length....” DTE 98-57 Phase III, Initial Brief of Verizon at 48. In fact, as Verizon has stated, LFACS contains other information that is useful in determining whether certain services may be provided. See DTE 98-57 Phase III, Direct Testimony of Bruce F. Meacham at pp. 18-20.

¹⁹ *UNE Remand Order*, 15 FCC Rcd 3923-24 ¶¶ 516-518.

consideration of Verizon's Application, and warrant a conclusion that Verizon has not satisfied Checklist Item 2.²⁰

The Poor Quality of Verizon's OSS Was Not Detected by KPMG

15. In the DTE's Section 271 proceeding, KPMG's testing of GUI availability and performance was extremely limited.²¹ In fact, KPMG reviewed only 155 pre-order transactions using the GUI – just 4% of the total pre-order transactions it tested. Nor did KPMG break these down by transaction types, such as number of DSL loop orders.²² Nonetheless, KPMG concluded that it was "satisfied" with both the availability and performance of the GUI.²³

16. KPMG's conclusion appears to be flawed with respect to pre-ordering OSS access, because KPMG tested for *responses*, not for *accuracy of the responses*. In particular, KPMG deemed *any* response – including all "error" responses – sufficient as a measure of

²⁰ A separate basis for finding that Verizon's OSS is not in compliance with Checklist Item 2 is the fact that Verizon has failed to modify its OSS in Massachusetts to accommodate line sharing. In the *Line Sharing Order*, the Commission explicitly found that an ILEC's failure to modify its OSS to accommodate line sharing may support a finding that the ILEC is failing to provide nondiscriminatory access to UNEs, and that such evidence is relevant in the context of a Section 271 proceeding. *Line Sharing Order* at 20986, ¶ 173. Significantly, the Commission clearly stated that "incumbent LECs can implement suitable OSS modifications within the time frame we establish for implementation of this obligation." *Id.* at 20970, ¶ 126 and n.300. Furthermore, the Commission found that ILECs "have already modified their OSS systems to accommodate their own xDSL products, and ... those modifications and those required for line sharing are substantially similar." *Id.* at 20971, ¶ 127. The anti-competitive effects of Verizon's denial of access to LFACS thus is evident.

²¹ See Verizon Application, Appendix B, *Record of Massachusetts DTE Docket No. 99-0271 (Section 271 Proceeding)*, Vol. 46, Tab 545, Transcript of Technical Session Held 8/28/00, at 3130; 3184.

²² See *id.* at Vol. 46, Tab 547, Transcript of Technical Session Held 8/29/00 (Testimony of Mr. Dellatorre), at 3264-67.

²³ See *id.* at Vol. 49, Tab 565, KPMG's OSS Evaluation Final Report, Version 1.4 for BA-MA, at 96-103.

whether the GUI was functioning.²⁴ Therefore, the GUI, when used for pre-ordering, received a 100% rating for "Presence of Functionality," simply because it gave either an "error message" or a "valid response."²⁵ Without knowing whether these responses were accurate, however, that rating cannot be relied upon as a validation of Verizon's OSS performance, as proved by Digital Broadband's experience with the GUI.

17. KPMG also did no follow up testing to determine whether an error message should have been received – that is, whether the LQD in fact contained wrong information, or was simply incomplete. It has been Digital Broadband's experience that error messages often are the result of failures by Verizon either to include information in the database, or to enter information in the database correctly. *See* Declaration of Steve Melanson, pp. 3-4. KPMG simply did not test these "false negatives."

18. Digital Broadband's experience is fully supported by the experience of other CLECs, as is clear from the testimony of Mr. Katzman on behalf of Covad at the DTE's Technical Sessions in DTE 99-271. Mr. Katzman pointed out other inadequacies of the GUI, including its inability to handle large volumes and the fact that it only responds to one error on a single query. ALTS and Nextlink also pointed out that "[t]he [KPMG] observations clearly

²⁴

See id. at 43 ("A transaction was deemed complete if one of the following was received: a positive pre-order response, a local service confirmation ('LSC'), or an error message.").

²⁵

See id. at 97.

document that [Verizon] continues to . . . provide[] CLECs with inaccurate and false end-user information,” and that even “determining how to correctly place an order is nearly impossible.”²⁶

19. As the Pennsylvania Public Utility Commission recognized when it ordered Verizon to make available “real-time access” to LFACS and other electronic databases, holding that Verizon’s proposal “for giving access to loop data through a Web GUI is inadequate”²⁷:

Real-time electronic access to loop make-up information is important for several reasons. First, such electronic access will allow CLECs to determine quickly whether a customer’s loop is suitable for DSL in response to customer inquiries. Second, electronic access allows CLECs greater flexibility in structuring their workforce, because on-line systems could be used 24 hours per day to research the suitability of customer loops to support DSL. Third, electronic systems can support much greater volumes of inquiries than will manual systems. Finally, ILECs may have internal electronic pre-ordering and ordering systems available, thereby giving them an advantage in serving customers over CLECs. Time is of the essence in providing pre-ordering information, because the market for high-speed data services, in particular DSL-based services, is growing larger and more competitive every day.²⁸

²⁶ See Verizon Application, Appendix B, *Record of Massachusetts DTE Docket No. 99-271 (Section 271 Proceeding)*, Vol. 46, Tab 533, Transcript of Technical Session Held 8/21/00, at 2756-59; see also *id.* at Vol. 38, Tab 458 (submitted 7/19/00), at 4.

²⁷ Pennsylvania Public Utilities Commission, P-00991648, P-00991649, *Opinion and Order*, at Section VII, p. 10 (Aug. 26, 1999) (“*Pennsylvania Global Telephone Order*”).

²⁸ *Pennsylvania Global Telephone Order*, at Section VII, p. 11.

20. Verizon is fully aware of the substantial market demand for high-speed data services. By providing access to inferior quality information, and denying real-time access to other data, it is acting anti-competitively. Its actions should not be rewarded with Section 271 authority.



B. Kelly Kiser
Vice President – Legal and Regulatory Affairs
Digital Broadband Communications, Inc.

Dated: October 13, 2000

Declaration of Theresa M. Landers

I, Theresa M. Landers, hereby declare under penalty of perjury of the laws of the United States of America, that the following statements are true and correct to the best of my knowledge, information, and belief:

1. I am Vice President – Network Services for Digital Broadband Communications, Inc. (“Digital Broadband”). I am authorized to make this declaration on behalf of Digital Broadband.

2. Digital Broadband, whose principal place of business is in Waltham, Massachusetts, is a Broadband Communications Provider that provides retail high-speed, broadband access to small-to-medium size businesses and enterprise corporations seeking a broadband solution for their employee teleworkers. Unlike many other CLECs that offer digital subscriber line services, we do not provide wholesale services.

3. I am responsible for managing the deployment of Digital Broadband’s network and communications services, which include transmission technologies such as Digital Subscriber Line (“DSL”) and, when available, line sharing. I have over 20 years of experience working with local telecommunications transmission facilities and operations support systems (“OSS”). My specific areas of expertise include OSS and OSS databases as well as network capacity planning and deployment.

4. I am aware that Verizon New England, Inc. has filed with the Federal Communications Commission an application for authorization under Section 271 of the Communications Act to provide in-region, interLATA service in the state of Massachusetts (the “Application”). The purpose of this declaration is to provide the Federal Communications

Commission with facts in response to certain claims and statements made by Verizon in the Application and supporting documents.

5. Digital Broadband has conducted an extensive review of its data in order to compile a clear and concise record of Verizon's provisioning of interconnection and unbundled network elements ("UNEs") as requested by Digital Broadband. This Declaration focuses on Verizon's performance under Checklist Item 1 (Interconnection), in particular, collocation power charges, Checklist Item 2 (Unbundled Network Elements), specifically with respect to OSS, and Checklist Item 4 (Unbundled Local Transport), with respect to interoffice transmission facilities ("IOF").

IOF

6. Interoffice facilities are critical to Digital Broadband's ability to deploy its network as planned. Digital Broadband connects its satellite locations (that is, collocated space at Verizon central offices) to a "hub" location using high-capacity IOF leased from Verizon. Where dark fiber is not available, Digital Broadband seeks to lease alternative IOF, including DS3 capacity. The satellite-to-hub DS3 connections thus are integral components of a seamless network, and the lack of connectivity from a satellite to a hub location puts our satellite arrangements in limbo until they can be connected. However, we are required to continue to pay Verizon's substantial collocation charges while we wait for Verizon to provision IOF -- specifically, we are forced to pay recurring monthly charges for collocation space and power (120 amps per bay), even though the central office is not -- and because of Verizon's delay, cannot be -- activated.

IOF Provisioning Process

7. The process Digital Broadband follows in its ordering of DS3 IOF is as follows. Two weeks before a collocation site is turned over to Digital Broadband by Verizon, Verizon sends, via e-mail, the Continuing Facility Assignment ("CFA") information that we need in order to tell Verizon where it should connect the DS3 on our POT Bay. Verizon will not accept the DS3 order unless the correct CFA is on the order.
8. Once Digital Broadband has the CFA, one of our Capacity Managers sends an Access Service Request ("ASR") to Verizon by facsimile. In addition to the CFA information for both ends of the circuit, other information on the ASR includes the originating and terminating locations of the DS3, the date that we want the DS3 delivered to us, the format in which we need to receive the DS3, and a Digital Broadband contact name and number. Within 72 hours of receiving a valid ASR, Verizon is to provide Digital Broadband, via facsimile, a Firm Order Commitment ("FOC") that specifies the date that Verizon will turn the circuit over to us. Verizon's standard DS3 IOF provisioning interval is fifteen business days.
9. One week before the FOC date Digital Broadband receives from Verizon, via facsimile, a Detail Layout Record ("DLR") which confirms where the DS3 will be wired. Digital Broadband confirms that it is the CFA that we requested on the ASR and that the CFA designated has been cabled to the DSLAM at one end of the circuit, and to an ATM switch port on the other. This cabling work usually is done when the collocation site is constructed.
10. On the FOC date, Verizon is supposed to call Digital Broadband to tell us that the circuit has been completed and that they are turning it over to us. Digital Broadband's Field Operations group then manually dispatches two technicians to test the DS3; a technician is required at each end of the circuit in order to test the DS3. If the circuit tests "good" the

technicians then test from the DSLAM to the ATM switch. If the circuit is good, Field Operations so informs Digital Broadband's Network Services group by telephone so that the "turn-up" of the collocation site can be scheduled. If a trouble is found on the circuit, one of the technicians calls the trouble into Verizon. When Verizon clears the trouble, it calls to tell us, and the two Digital Broadband technicians are dispatched again. This cycle repeats until the circuit tests good by our technicians.

Verizon's IOF Performance

11. Verizon claims that its on-time completion rate for dedicated transport IOF "was 97.3 percent on average...."¹ Digital Broadband's experience, based on its orders for DS3 connections placed both in Massachusetts and in New York for over five months this year, has been substantially worse than Verizon's reported figure. Verizon routinely fails to provision orders by the FOC date, frequently changes FOC dates, and routinely fails to provision properly functioning facilities. The result is excessive costs and delays for Digital Broadband.

12. As set forth in Attachment 1 to my declaration, between April 15 and September 29, 2000, Digital Broadband ordered 88 DS3 connections in Massachusetts and 58 DS3 connections in New York. In Massachusetts, Verizon has completed less than 25% (21 of 88) of these orders by the committed date; its performance is only slightly better in New York (32.75%) but is still far below the performance rate it cites in support of the Application. See Attachment 1. In Massachusetts, Verizon has given FOC dates as late as December 2001 for a DS3 connection between central offices. This is not an isolated occurrence; at least 14 DS3 orders

¹ Initial Brief of Verizon, p. 30.

placed in June and July of this year have received FOC dates that are between six and fifteen months after the order date.

13. Verizon also frequently changes FOC dates. Digital Broadband has ordered many DS3s, been given a FOC date by Verizon, and subsequently been told by Verizon that the FOC date had to be changed. The delays typically are up to three or four months, but in at least one instance Verizon changed the FOC date from September 6, 2000 to June 10, 2001.

14. The quality of the DS3s provisioned by Verizon also is extremely poor. Of the orders provisioned since April 15, 2000 in Massachusetts, only four worked properly on the turnover date. New York has been worse – only two orders have worked properly on the turnover date. Just as problematic is the fact that for nine orders in Massachusetts Digital Broadband has been forced to make multiple dispatches before Verizon has been able to complete the order and deliver a working DS3 connection. See Attachment 1.

15. When a DS3 circuit is not functioning properly, Verizon typically logs the problem as “Jeopardy Code/Customer Not Ready”. Verizon then refuses to dispatch unless Digital Broadband agrees to move the due date out at least five days. Not only does this result in incorrect, manipulated performance ratings that Verizon reports to regulatory agencies, it also forces Digital Broadband into the position of accepting all DS3s at turnover, and then placing trouble requests after the fact, because the repair interval for trouble tickets is four hours – substantially less than the five days Verizon attempts to have us agree to.

Collocation – Power Charges

16. I am aware that the FCC is examining a number of collocation issues in CC Docket No. 98-147. However, there are a number of ways Verizon has impeded and continues to impede Digital Broadband’s efforts to introduce competitive services in Massachusetts. One

method is by excessive and unjustified power charges for collocation arrangements at Verizon central offices.

17. Verizon charges Digital Broadband (and other CLECs) for power based not on actual usage, but on (1) Verizon's fused amperage and (2) two separate feeds at the higher fused amperage. As a result, Digital Broadband has been charged for 120 amps (60 amps for each of two feeds) per month, even though we could never use more than 40 amps, and generally use less. This practice results in overcharging Digital Broadband by 80 amps per month for each fused power feed in a collocation arrangement. This is an industry-wide problem. Digital Broadband has raised the issue directly with Verizon Massachusetts, and ALTS also has asked Verizon to modify this practice, but to my knowledge Verizon has not responded to ALTS.

OSS

18. I have testified before the Massachusetts Department of Telecommunications and Energy ("DTE") regarding Verizon's failure to make available OSS – specifically, databases containing loop qualification information – in the same time and manner as that information is available to Verizon. Because this evidence is relevant to Verizon's claims of checklist compliance, Digital Broadband is presenting this data to the FCC and urges the FCC to review the complete record in the DTE's proceeding (DTE 98-57 Phase III) investigating Verizon's proposed rates, terms, and conditions for line sharing and xDSL in Massachusetts. This data is set forth in the accompanying declaration of my colleague Steve Melanson, Digital Broadband's Vice President – Customer Operations, which I hereby incorporate by reference. As noted by Mr. Melanson, Digital Broadband supplied evidence in DTE Docket No. 98-57 (Phase III) and in DTE Docket No. 99-271 about the extremely poor performance and inaccurate results of Verizon's OSS in Massachusetts, in particular, the Graphical User Interface and Line

Qualification Database, which demonstrates that these databases are inaccurate for a significant percentage of loops. Verizon's denial of access to reliable information a large number of order cancellations.

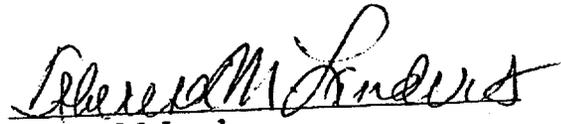
POTS Lines in Collocation Space

19. Digital Broadband consistently has encountered difficulty obtaining POTS lines in our caged collocation space. Verizon prohibits the use of mobile telephones in its collocation space. Digital Broadband therefore has attempted to order a POTS line in its collocation space, by ordering a POTS line at the time we accept collocation space. A POTS line in our collocation space allow our technicians to communicate directly with other Digital Broadband technicians and with our Network Operations Center, and allows our technicians to quickly call Verizon to report troubles. However, Verizon has no process for collocators to order a simple POTS line (even though POTS lines are Verizon's number one product in terms of lines installed). In late 1999, Digital Broadband worked with several departments within Verizon to get POTS lines installed, but we discovered that Verizon's personnel had no idea how it should be done. Every order had to be project managed by Digital Broadband to insure that it was actually installed. There has been some improvement, but we continue to battle with Verizon for every POTS line in every collocation site.

Impact of Verizon's Performance

27. Verizon's poor performance has a substantial detrimental impact on Digital Broadband's ability to provide the services it seeks to deliver, when and where it wants to provide them. Verizon's failure to meet its committed dates is a critical problem not only because it delays Digital Broadband from meeting customer expectations, but also because it

forces Digital Broadband to make unnecessary financial expenditures and allocate staff away from other matters.


Theresa M. Landers
Vice President – Network Services
Digital Broadband Communications, Inc.

Dated: 10/12/2000

**ATTACHMENT 1 TO
DECLARATION OF THERESA M. LANDERS**

DS3 Orders April 15 – September 29, 2000

Total Orders by State	No. of Orders for which FOC Delivered within Standard 72 Hr. Interval	% Orders for which FOC Delivered within Standard 72 Hr. Interval	No. of Orders Completed by FOC Date	% Orders Completed by FOC Date	No. of Orders Working Properly on Turnover	No. of Orders for which Multiple Dispatches Required
MA-88	11	12.5	21	23.75	4	9
NY-58	12	20.7	19	32.75	2	12

Declaration of Steve Melanson

I, Steve Melanson, hereby declare under penalty of perjury of the laws of the United States of America that the following statements are true and correct to the best of my knowledge, information, and belief:

1. I am Vice President – Customer Operations for Digital Broadband Communications, Inc. (“Digital Broadband”). I am authorized to make this declaration on behalf of Digital Broadband.

2. Digital Broadband, whose principal place of business is in Waltham, Massachusetts, is a broadband communications provider that provides retail high-speed, broadband access to small-to-medium size businesses and to enterprise corporations seeking a broadband solution for their employee teleworkers. Unlike many other CLECs that offer digital subscriber line service (“DSL”), we do not provide wholesale services.

3. I oversee Digital Broadband’s Care/Help Desk group, Network Support Group, Account Management Group, and Service Delivery Group. In particular, I am responsible for managing all of Digital Broadband’s procedures to ensure that we deliver service to our customers in a timely manner. I monitor a customer order from the time the order is submitted to my organization from our Sales Department, until the circuit is installed and operational at the customer’s premises. In addition, I ensure that post-installation service issues are resolved; once a circuit is operational, if the customer experiences any problems, I am responsible for seeing that the circuit is repaired. I have constant, daily, extensive interaction with Verizon personnel on a variety of matters related to loop orders and installation.

4. I am aware that Verizon New England, Inc. has filed with the Federal Communications Commission an application for authorization under Section 271 of the