

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 orders for certain unbundled network elements ("UNEs") placed by Digital Broadband. This declaration focuses on Verizon's performance under Checklist Item 2, Unbundled Network Elements, including Operations Support Systems ("OSS") and the local loop UNE, specifically, loops that Digital Broadband requires to offer its customers DSL and Digital Signal Level 1 ("DS1") services.

6. In this declaration, I briefly describe the loop qualification, ordering and provisioning processes, and then summarize Digital Broadband's experience with Verizon on this critical Checklist item.

Loop Qualification

7. Verizon requires that before a CLEC may submit an order for a DSL loop, the CLEC must first "qualify" the loop; that is, determine whether the loop is capable of supporting the technologies that the CLEC plans to use.¹ Verizon imposes on CLECs a qualification process that involves the use of an interactive computer database. Specifically, Digital Broadband uses Verizon's Graphical User Interface ("GUI") to access loop information that is contained in Verizon's Line Qualification Database ("LQD"). The LQD was created by Verizon for CLECs to use for loop qualification. In the loop qualification process, Digital Broadband

enters basic service address and working telephone information into the GUI and the LQD processes that data to determine whether there is a qualified loop. The LQD response will be that a loop is either qualified or not qualified, or the response will be some sort of an error message.

8. Digital Broadband supplied evidence to the Massachusetts Department of Telecommunications and Energy ("DTE") 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 GUI and LQD in Massachusetts. The LQD frequently gives responses that are useless or inaccurate. As my colleague Theresa M. Landers, Digital Broadband's Vice-President – Network Services, informed the DTE, from January through May 2000, Digital Broadband submitted 7,982 queries to the LQD using the GUI. Nearly 50%, or 3,495, of the responses to those queries contained error messages or undecipherable or inaccurate information.

9. Digital Broadband has tested Verizon's loop qualification error messages by using the "manual" loop ordering procedures described below to determine whether a loop for which the LQD responded with an error message in fact is qualified. Specifically, Digital Broadband has submitted requests for manual loop ordering either when the LQD fails to indicate whether a loop is qualified, or when the LQD indicates that a loop is not qualified but Digital Broadband has reason to believe the LQD is wrong. Through July of this year, Digital Broadband requested manual qualification 533 times. Of those 533 instances, Digital

(footnote continued from previous page)

¹ Initial Brief of Verizon, Appendix L, Vol. 1, Tab 1, DTE Tariff 17, Part M, Section 2.5.4.

Broadband later was able to deploy service on 225 (42%) of the loops, meaning that close to 50% of the LQD results were what are called "false negatives." At bottom, the GUI/LQD does not function anywhere near an acceptable level for a significant percentage of loops.

10. Both the LQD and manual ordering for loop qualification also give results that are "false positives"; that is, the response indicates that a loop is qualified, but later information reveals the response was wrong. In fact, between January and July 2000, 14% of all of Digital Broadband's qualified loop orders were false positives. Thus, Digital Broadband must rely on misleading information when it orders loops. During the post-order provisioning effort, however, many loops are found to have a Verizon-related problem that should have prevented the loop from being qualified. These problems include excess loop length, the presence of a T1 loop in the binder group, and provisioning of the loop over digital loop carrier facilities – problems that would be immediately evident by reference to another Verizon database, the Loop Facilities Assignment and Control System ("LFACS"). LFACS is a more accurate and comprehensive facilities database that Verizon refuses to make available to Digital Broadband. In any event, when these problems are discovered, Digital Broadband is forced to cancel loop orders, which obviously has a negative impact on Digital Broadband's business and customers.

Loop Ordering and Provisioning Process

11. Once the qualification step has been completed, a Local Service Request (LSR) can be submitted to order service for the customer's premises or site. There are two methods that can be used in the loop ordering process. The first method is what Verizon calls the "Prequal" method. This method is used for those sites that received a positive response, or "passed," in the

initial loop qualification step described above. The second method is what is called the "Manual" method and is used for those sites that failed or received error messages in the loop qualification process. Both ordering methods involve submitting the orders through the same GUI that is used for loop qualification. As stated above, Digital Broadband uses the "Manual" loop ordering process to test the GUI's failure or error response for a loop in the loop qualification process, and as shown above Digital Broadband thereby has discovered an overwhelming percentage of false negatives. The truth is that submitting an order through the manual method forces Verizon to take additional actions to determine the qualification of a loop that it might not otherwise take, and that pay off frequently because the loop in fact is qualified. False positives still also occur, however, as I state above.

12. When Digital Broadband submits an LSR using the "Manual" method -- which it must frequently do because of the unreliability of the mechanized LQD database -- part of the "manual" procedure Verizon performs is a check of the mechanized LFACS database.² Verizon, in the line sharing and xDSL tariff proceeding before the DTE, attempted to impose substantially higher charges for so-called "manual" procedures than for mechanized procedures -- charges that I understand the DTE recently rejected.

² Initial Brief of Verizon, 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), at pp. 496-497 (stating that Verizon does not make LFACS directly available to CLECs, but that LFACS is "indirectly" available through manual qualifications and engineering queries).

13. Once an LSR is accepted by Verizon, Verizon is required to return a Firm Order Commitment ("FOC") date within 24 hours for DS1s or those DSL loops in the "Prequal" method, or within 72 hours for those DSL loops in the "Manual" method.

14. The FOC date is the date on which Verizon represents it will provision the loop. For DSL lines, Verizon's standard interval – the period between when Verizon provides the FOC date and completion of the order – is six business days. For DS1 loops, Verizon's standard interval is 14 business days.

15. When Digital Broadband receives a FOC date from Verizon, we may accept, escalate, or reject the FOC date. We "accept" if the FOC date is acceptable; after we receive the FOC, the order is supposed to flow through Verizon's order management system. We "escalate" if the FOC date is unacceptable – for example, if the FOC date is six months away. Escalation involves negotiating with Verizon to change the FOC date. Digital Broadband escalates a large number of FOC dates – between 25% and 50% -- because of the excessive length of interval Verizon proposes. We will "reject" and subsequently cancel the order if the FOC date is so far out, and we cannot negotiate a better date, that we either provide our customer with a more costly service, or the customer decides not to place the order.

16. It is important to recognize that at any time after Digital Broadband submits an order, Verizon may inform us that the requested service is not available (for example, because of an asserted lack of facilities). In fact, for manually qualified loop orders, there is approximately a 25% chance that a loop will "fail" up to the time of cooperative testing. As a result, managing customer expectations as to installation and delivery is extremely time-consuming and complicated. Verizon's ability to, in essence, cancel an order at any time up to the time of cooperative testing holds Digital Broadband and other competitors hostage to Verizon's

information about the network and the loop, and makes competing against Verizon significantly more difficult.

17. If Verizon initially informs Digital Broadband that service is available, the order flows through Verizon's systems until the FOC date. On the FOC date (which may have changed from the initial FOC date), Verizon represents that it will send a technician to the site, and then call Digital Broadband to perform cooperative testing. If the loop passes the cooperative testing, Digital Broadband will accept the loop. If the loop fails the test – due to line quality problems, facilities problems, or other causes – Verizon is supposed to attempt to correct the problem or locate a new facility. Again, it is possible, even at this point, that Verizon will inform us that the loop is not capable of supporting the desired services, or, in other words, is not qualified. In fact, this is a regular occurrence. A retest is performed; only if that test is passed will Digital Broadband accept the loop.

DSL Performance

18. The results of Digital Broadband's data review contradict Verizon's statements in the Application that its "performance for DSL loops is excellent." Application, p. 23. Digital Broadband has prepared a chart to illustrate the results of its data review. This chart (Attachment 1 to my declaration) shows the delays Digital Broadband has experienced in the months of June, July, August, and September 2000. Although the numbers are an aggregate of all DSL loop orders placed by Digital Broadband in Massachusetts, Rhode Island, and New York, at least 85% of the orders, conservative speaking, were placed in Massachusetts and New York, and a clear majority of those orders were placed in Massachusetts. (In fact, for the months of June and July, all orders were placed for loops in Massachusetts or Rhode Island only, and only a small number of New York orders were placed in August and September.) Moreover, there has been no

material difference between Verizon's DSL provisioning performance in Massachusetts and its DSL provisioning performance in New York.

19. As shown in Attachment 1 to my Declaration, for the period from June through mid-September 2000, Digital Broadband submitted to Verizon a total of approximately 1,181 DSL loop orders that received FOC dates. (These orders represent approximately 90% of all DSL loop orders we placed during this period.) Verizon responded to only 33.8% of these orders with a FOC date that was within its standard 6 business day interval. In other words, Verizon failed to provide a FOC date that was within its standard interval *two-thirds* of the time. See Attachment 1.

20. Our data also shows that when Verizon's FOC dates exceed the standard 6 business day interval, they do so by a substantial amount. For the period studied, 187 orders (15.8% of all orders) had FOC dates up to two weeks beyond the standard interval, and an even greater number – 254 orders (21.5% of all orders) – had FOC dates at least three weeks beyond the standard interval.

21. Significantly, Verizon's performance on delivering a FOC date that is within the standard interval has deteriorated in recent months. In June, Verizon provided FOC dates that were within the standard interval approximately 57% of the time, and in July approximately 55% of the time. These figures plummeted for the most recent two months, to a mere 14% in August and 18.5% in September. I note that Digital Broadband's measurement of Verizon's missed FOC dates is conservative, because of the manner in which we time-stamp our receipt of FOC dates: in many instances, we begin counting the 6 business days after Verizon starts counting due to the time we take to review and accept the FOC.

22. Verizon also routinely fails to deliver DSL loops on the promised FOC date. Attachment 1 includes representative numbers of Digital Broadband's DSL orders that Verizon has provisioned on or before the FOC date for August and September 2000. For August, Verizon delivered fewer than 50% of orders on time (63 of 127); performance improved in September but Verizon still delivered 27% of orders (62 of 229) late.

23. In the Application, Verizon argues that when it misses FOC dates it generally does so because its customer (the CLEC) has not performed necessary work or has in some way impeded Verizon's ability to perform on time. Application, pp. 24-25. For example, Verizon states that it receives orders for DSL loops that have not been pre-qualified, and that for such loops "an extra three days must be added" to the standard 6-business day provisioning interval. Application, p. 24. This claim does not apply to Digital Broadband's DSL loop orders, because Digital Broadband pre-qualifies all of its orders before submitting them to Verizon. In fact, Verizon will assign a FOC date *only after* the loop has been pre-qualified. Therefore, once Verizon provided FOC dates to Digital Broadband for the 1,181 DSL loop orders we studied, delays in provisioning were due to events within Verizon's knowledge and control.

DS1 Performance

24. At the outset, it is worth noting that Digital Broadband offers DS1 services to our customers who have failed to qualify for DSL due to excessive loop length, asserted lack of facilities or other problems, including those mentioned in this declaration, or because Digital Broadband cannot collocate at the servicing central office. Verizon's performance with respect to DS1 orders is even worse than its DSL performance. As shown in Attachment 2 to my declaration, for the period of June to September 2000, Digital Broadband submitted a total of 203 orders for UNE DS1 connections between Digital Broadband customers and a Verizon

central office. As with DSL loop data, although the numbers are an aggregate of all orders placed by Digital Broadband in Massachusetts, Rhode Island, and New York, at least 85% of the orders were placed in Massachusetts and Rhode Island, a clear majority of those orders were placed in Massachusetts, and no New York orders were placed prior to August. Moreover, there has been no material difference between Verizon's performance in Massachusetts and its performance in New York.

25. As with DSL orders, Verizon has shown that it has great difficulty giving a FOC date that is within the standard interval and also provisioning an order by its committed date. In fact, Verizon was able to provide FOC dates that were within the standard interval on just 17 occasions between June and September – an 8.4% rate. Verizon also generally exceeds the standard interval *by more than a month*; between June and September it exceeded the standard interval by at least four weeks on more than 50% of all DS1 orders. *See Attachment 2.*

Verizon's month-to-month DS1 performance has fluctuated, but most recently, like its DSL loop provisioning, performance has sharply deteriorated. In September, Verizon was unable to provide even a single FOC date that was within the standard interval. *See Attachment 2.*

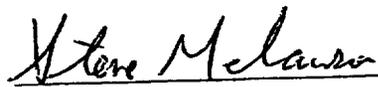
26. As with DSL loops, Verizon routinely fails to deliver DS1 loops on the promised FOC date. Attachment 2 includes representative numbers of Digital Broadband's DS1 orders that Verizon has provisioned for August and September 2000. For August, Verizon delivered more than one-half of Digital Broadband's orders after the FOC date, and in September Verizon delivered one-half of Digital Broadband's orders after the FOC date.

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. Lack of available facilities is a particular problem. As noted, Verizon may inform Digital Broadband at any time up to when cooperative testing is to occur that facilities are not available. This causes Digital Broadband to cancel the order. If the order was for a DSL loop, Digital Broadband often is forced to seek to obtain a DS1 loop instead in order to provide a form of broadband service to a customer.

28. Delay is the most obvious impact. Verizon's inability to plan and provision facilities and services affects Digital Broadband's ability to deploy its resources efficiently and, ultimately, delays or eliminates entirely our ability to provide service to customers. Cost is another significant factor. The turnover of DSL loops requires both Verizon and Digital Broadband to dispatch personnel, and each missed FOC date generally means an unnecessary dispatch at the expense of Digital Broadband.



Steve Melanson
Vice President – Customer Operations
Digital Broadband Communications, Inc.

Dated: 10/13/00

ATTACHMENT 1 TO
DECLARATION OF STEVE MELANSON

XDSL ORDERS

Month	Orders Submitted	No. of Orders - -FOC within Standard Interval	% Orders -- FOC within Standard Interval	FOC Date Delays			No. of Orders Delivered on or before FOC (Total Orders Delivered)	% Orders Delivered on or before FOC
				1 Week	2 Weeks	3+ Weeks		
June	175	100	57.0	35	30	10	*	-
July	341	190	55.8	106	9	36	*	-
August	308	43	14.0	65	40	160	63 (127)	49.6
September	357	66	18.5	135	108	48	167 (229)	73.0
TOTAL:	1181	399	33.8	341	187	254	230 (356)	64.6

* Data not available

ATTACHMENT 2 TO
DECLARATION OF STEVE MELANSON

DS1 ORDERS

Month	Orders Submitted	No. of Orders - FOC Date within Standard Interval	% Orders - FOC Date within Standard Interval	FOC Date Delays			No. of Orders Delivered on or before FOC (Total Orders Delivered)	% Orders Delivered on or before FOC
				1 Week	2 Weeks	3+ Weeks		
June	69	10	14.5	19	5	35	*	-
July	86	3	3.5	8	17	58	*	-
August	12	4	33.0	1	0	7	3 (7)	43.0
September	36	0	0.0	10	12	14	20(40)	50.0
TOTAL:	203	17	8.4	38	34	114	23 (47)	49.0

* Data not available

Declaration of John McMillan

I, John McMillan, 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 – Field 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 business 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 Digital Broadband’s Dispatch Group as well as all field services groups that install and repair customer and infrastructure circuits.

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 4 with respect to the local loop UNE, specifically, the quality of the loops that Verizon turns over to Digital Broadband for Digital Broadband's provision of digital subscriber line ("DSL") and Digital Signal Level 1 ("DS1") services, and Checklist Item 4, Unbundled Local Transport, with respect to interoffice facilities ("IOF").

6. In its Application, Verizon claims that it "is providing DSL loops that are at a level of quality 'sufficiently high to permit competitors to compete meaningfully.'" Digital Broadband's experience has been to the contrary. Verizon provisions an unacceptably large number of loops that pass initial cooperative testing but subsequently fail, and loops that do not function even after being installed.

7. Attachment 1 to my Declaration represents a sample of DSL local loop orders placed by Digital Broadband in August and September 2000. These figures show that during the periods sampled, 19.5% (60 out of 308) passed the initial remote cooperative testing at time of loop turnover but did not pass subsequent testing when Digital Broadband performed installation at the customer premises. The failure rate for DS1 orders has been even higher. Attachment 1 also shows that of a sample of 32 DS1 orders placed between September 18 – September 22, 2000, more than one-half (18 of 32) did not pass initial testing.

8. Attachment 1 also shows a sample of DSL and DS1 local loop orders and DS1 IOF orders placed by Digital Broadband in August and September 2000. These figures show that during the periods sampled, a total of 122 orders failed at the time of DBC installation. More than 50% of these failures were due to Verizon. The number of failed installations was virtually identical for the August sample period and for the September sample period, although the percentage of failures due to Verizon was greater for the September period. (I note that these

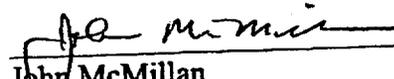
are samplings based on discrete time periods during August and September, and that samples of orders from other periods in the past have shown even *higher* failure rates.)

9. In its Application, Verizon generally blames its competitors for its failure to deliver functioning loops. For example, Verizon states that “the vast majority (more than 80 percent) of the ‘repair’ requests that are submitted on DSL loops either are traced to problems that should have been revealed during acceptance testing, or are closed with no trouble found.” Application, pp. 25-26. Verizon goes on to state that CLECs “are submitting ... trouble reports within short periods after the loops are installed and after they provide a serial number accepting the loops as working,” and that this “suggests that CLECs are accepting loops that are not capable of supporting the services they wish to provide and then submitting ‘repair’ orders in an effort to force Verizon to rebuild or replace the loop.” Application, p. 26.

10. Verizon’s conjecture is not applicable to Digital Broadband. Digital Broadband has not knowingly accepted loops that are not capable of supporting DSL services. What happens with disturbing frequency, however, is that, *after* a loop has been tested and has passed, Digital Broadband sends field operations personnel to the customer premises for installation (a “truck roll”), only to discover that the loop no longer passes testing. The reason the loop no longer passes testing often is that loop parameters have changed between the time of initial testing and installation – for example, there has been a resistive or voltage fault, or some aspect of the loop as initially tested has been altered by Verizon in such a manner that the loop as initially tested no longer is available.

11. Verizon’s failure to test and install loops properly – and its altering of loops that already have been tested – has a substantial detrimental impact on Digital Broadband’s ability to provide the services it seeks to provide, when and where it wants to provide them. Verizon’s

actions deprive Digital Broadband of the ability to deploy its resources efficiently and, ultimately, delays or prohibits service to customers. Cost is another significant factor. The deployment of human and technical resources to test, retest, and re-install loop means that Digital Broadband is unable to devote those resources for other purposes.



John McMillan
Vice President – Field Operations
Digital Broadband Communications, Inc.

Dated: 10/12/00

ATTACHMENT 1 TO
DECLARATION OF JOHN McMILLAN

Test Period	Total Failed Installs	No. of Failed Installs Caused by Verizon	% of Failed Installs Caused by Verizon	DSL Cooperative Testing Failures (Total Orders Sampled)	% of DSL Sampled Test Failures	DS1 Testing Failures (% of all Tests)
August	60	31	52.0%	31 (119)	26.0%	-
September	62	38	61.0%	29 (189)	15.0%	18 (56%)*
TOTAL	122	69	56.5%	60 (308)	19.5%	-

* For September 18 through September 22, 2000 only.

Exhibit B

- FCC Charts

Exhibit C

- Letter from Kim Kirby, ALTS to Verizon



ASSOCIATION FOR LOCAL TELECOMMUNICATIONS SERVICES

1200 Main Street • Suite E
Irvine, CA 92614
Office: 949 486 1330
Fax: 949 486 1010

888 17th Street, NW • Suite 900
Washington, D.C. 20006
Office: 202 969 ALTS (2587)
Fax: 202 969 ALT1 (2581)

www.alts.org

Kimberly Kirby
Vice President, State Affairs

September 14, 2000

Mr. Tom Dreyer
Director, Account Management – CAP/CLEC
Verizon Wholesale Markets
500 Summit Lake Drive
4th Floor
Valhalla, NY 10595

Re: Power in Central Office Space

Dear Mr. Dreyer:

During the past year Verizon (formally Bell Atlantic) has entered into numerous collocation arrangements with several competitive local exchange carriers ("CLECs").¹ These arrangements include, but are not limited to, cageless and caged arrangements. In the former Bell Atlantic region, Verizon files state and federal tariffs encompassing all the necessary elements and associated costs for CLEC collocation. Verizon's Caged, and other collocation arrangements, are found in federal tariffs filed with the Federal Communications Commission ("FCC") while other collocation arrangements, including cageless, are filed in state tariffs in the Bell Atlantic region.²

Power resources are a necessary element for the function of a CLEC's collocated equipment, whether caged or cageless. The amount of amps a CLEC needs to power its equipment is listed in Verizon's federal and state tariffs. However, it appears as if Verizon is charging CLECs for amps that CLECs do not order and do not use, regardless of whether the equipment is for a caged or cageless arrangement. For example, in Massachusetts, when a CLEC orders cageless collocation and requests 40 amps of power, Verizon "fuses" the requested forty (40) amps of power to sixty (60) amps and then charges for sixty (60) amps on both the A and the B feed. The result is an overcharge to CLECs of 80 amps.

While Verizon has the option of fusing at more than what CLECs have ordered, CLECs should not have to pay for the "extra" fusing. Rather, CLECs should only be charged for what they order. Verizon also has no sound argument for doubling the amount of amps necessary to power the equipment. For standard caged collocation arrangements Verizon supplies the necessary power over two different feeds (the A and B feeds). Each feed is capable of supplying the maximum current required by CLEC equipment (30 to 40 amps). Although it is logical to assume that a CLEC can draw 60 to 80 amps over both feeds, it is illogical to charge for 60 to 80 amps due to the way the CLEC

¹ Verizon refers to the newly formed company of Bell Atlantic and GTE. The Bell Atlantic region refers to the former Bell Atlantic states.

² Although the vehicle through which CLECs order necessary elements for different collocation arrangements seems irrelevant, there is a significant increase in power costs for those CLECs ordering cageless arrangements available only through state tariffs.

configures its equipment. Under most CLEC configurations, the power source is either the A or the B feed, but not both. If the A feed fails, the B feed, or back-up, will trigger and continue to supply the necessary power. For Verizon to charge the full amount for both the A and B feeds is illogical and anti-competitive.

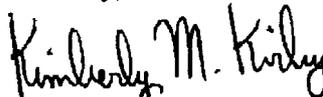
Further, Verizon offers different power resources for cageless arrangements, found in state tariffs than those offered in its caged collocation offerings in FCC Tariff No. 11. The distinction is significant for those CLECs using cageless arrangements in that Verizon charges almost twice for the necessary amps in its state tariff filings resulting in a significant recurring monthly charge.

Put differently, Verizon is over-charging CLECs for power and trying to justify the over-charge as a necessary component of the collocation arrangement. Verizon states that it fuses 30 amps to 60 amps in order to make up for any unforeseen power issues. Yet in reality what Verizon is doing is profiting from its own policies while CLECs are put in the unenviable position of paying for power they do not use. Further, CLECs have no choice but to use Verizon power sources. In some instances the difference amounts to almost \$200,000 per state per year for 100 caged collocation arrangements, or about \$6.30 per line per month just for power. This is nothing more than a blatant move by Verizon to drain CLEC resources in the emerging competitive market.

ALTS requests that Verizon justify the cost differential between the ordered amps and the amps billed to CLECs. In addition, ALTS requests that Verizon explain why there is no consistency in the state and federal tariffs where CLECs order power for caged and cageless collocation equipment.

If you have any questions please feel free to contact me at (949) 486-1047.

Sincerely,



Kimberly M. Kirby
Vice President, State Affairs
Association for Local Telecommunications Services

CC: Antonio Yanez
Paul LaCouture

Exhibit D

- **Rhythms Petition for Reconsideration**

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

<hr/>)	
New England Telephone and Telegraph)	
Company, d/b/a Bell Atlantic – Massachusetts)	DTE 99-271
Section 271 of the Telecommunications Act of)	
1996 Compliance Filing)	
<hr/>)	

**RHYTHMS LINKS INC. MOTION FOR RECONSIDERATION OF ORDER
ADOPTING PERFORMANCE ASSURANCE PLAN**

On September 5, 2000 the Massachusetts Department of Telecommunications and Energy (“Department”) issued its Order Adopting a Performance Assurance Plan (“PAP”) (“*Order Adopting PAP*”) in the above-captioned proceeding. For the reasons stated below, Rhythms Links Inc. (“Rhythms”) moves for reconsideration of the Department’s Order.

I. INTRODUCTION

In its *Order Adopting PAP*, the Department adopted Verizon-Massachusetts’ (“VZ-MA’s”) proposed PAP¹—which is essentially identical to the PAP initially adopted in New York. However, as Rhythms indicated in its joint comments with Covad Communications Company (“Covad”), the New York PAP “does not adequately deal with all relevant DSL issues.”² The New York PAP does far too little to promote non-discriminatory treatment that will make full competition in the provision of DSL services a reality. For example, in the current New York Plan, Verizon’s wholesale performance with regard to DSL services is measured by

¹ With certain minor modifications. Most of the modifications to the VZ-MA proposal ordered by the Department merely rejected VZ-MA-proposed modifications from the New York Plan. *See, Order Adopting PAP*, at 23-35 (establishing the financial liability at \$142 million; adopting a 95% confidence interval; adopting the modified MOE weights that the New York Commission adopted in February 2000; rejecting VZ-MA’s proposed change to the statistical methodology used in New York; striking the VZ-MA provision which would allow VZ-MA to seek a waiver for “unusual” or “inappropriate” CLEC behavior; directing that annual audits remain mandatory; ordering VZ-MA to create a separate Massachusetts CCAP fund.)

² *Comments of Covad Communications Company and Rhythms Links Inc.*, D.T.E. 99-271 (filed Apr. 25, 2000) (“*Comments of Rhythms and Covad*”) at 1.

only four metrics, all contained within the Critical Measures subgroup. Of these four metrics, two are not supported by any Verizon data.³ A new Method of Entry (“MOE”) category geared toward DSL issues, as well as additional Critical Measures covering DSL, is needed to ensure the proper development of the market for DSL services in Massachusetts. Therefore, the Department should reconsider its Order because, while the New York PAP is a good starting point, it currently is not sufficient to fully and effectively detect and deter discriminatory provisioning of DSL network elements and services in Massachusetts.

Moreover, when Rhythms filed its comments in this proceeding, it did not have the benefit of the information regarding Carrier-to-Carrier metrics for DSL, which VZ-MA provided after comments were due. Therefore, in rendering its decision, the Department did not have the benefit of a fully developed record on DSL metrics. Thus, the Department should reconsider its *Order Adopting PAP* and as part of this reconsideration invite parties to comment on this new information.

Declining to add additional DSL measurements to the PAP,⁴ the Department instead chose to allow the New York Commission to take the lead in determining what, if any, additional DSL metrics and performance measures should be adopted, and then merely mimicked the New York Commission’s decision.⁵ The Department should not wait for the New York Commission to amend the PAP with regard to DSL issues. In its Comments on the PAP, Rhythms indicated its concern that VZ-MA’s performance on DSL issues would be inadequate after it gained § 271 approval unless (1) its performance on DSL was closely monitored; and (2) it faced sufficient

³ Verizon has not yet provided any data for “PO-8-01: Manual Loop Qualification Response Time” or “PO-8-02: Engineering Record Request Response Time,” two of the four DSL metrics approved by this Commission in its *March Order*. Neither has VZ-NY given any indication as to when such information may be expected.

⁴ *Order Adopting PAP* at 26.

⁵ *Id.*

penalties for violations of its performance.⁶ The record of VZ-MA's performance on DSL—which was made available after the deadline for comments in this proceeding—clearly shows that Verizon is not providing data CLECs with parity performance now, and has the potential to provide such poor performance in the future. Verizon's abysmal performance cannot be left unchecked after VZ-MA gains § 271 approval. Thus, the Department should reconsider its *Order Adopting PAP*, inspect the new information reported by VZ-MA since comments were filed, and implement the changes to the Plan as Rhythms proposes.

Specifically, the Department should amend the Massachusetts PAP to (1) create a new MOE measure for DSL service separate and apart from the UNE MOE, adding both DSL and line sharing metrics to that new MOE; and (2) add additional DSL measures and line sharing measures to the Critical Measures of the PAP. Additional DSL measures must be added to the PAP to ensure that Massachusetts consumers begin to receive the benefits of competition in the DSL services market. Given the importance of DSL and line sharing to the future deployment of telecommunications and advanced services to the consumers in Massachusetts, the Department should reconsider its Order adopting VZ-MA's proposed PAP consistent with Rhythms' proposals.

II. STANDARD OF REVIEW

Under the Department's Procedural Rule 220 C.M.R. § 1.11(10), a party is authorized to file a motion for reconsideration within twenty days of service of a final Department Order. The Department's policy on reconsideration is well settled. The Department may grant reconsideration of previously decided issues when "extraordinary circumstances dictate that the Department take a fresh look at the record for the express purpose of substantively modifying a decision reached after review and deliberation." *North Attleboro Gas Company*, D.P.U. 94-130-

⁶ *Comments of Rhythms and Covad* at 1-2; *Reply Comments of Rhythms and Covad* at 1.