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October 16, 2000

REDACTED- FOR PUBLIC INSPECTION

VIA MESSENGER

Magalie Roman Salas
Secretary
Federal Communications Commission
445 Twelfth Street, S.W., Room TW-B-204
Washington, D.C. 20554

Re: Application of Verizon New England, Inc., et al. for Authorization to Provide In-Region, InterLATA Services in Massachusetts, CC Docket No. 00-176 /

Dear Ms. Salas:

Pursuant to the Public Notice issued on September 22, 2000, enclosed please find the Comments of AT&T Corp. in opposition to Verizon's Section 271 Application for Massachusetts. AT&T is submitting an original and two copies of its Comments in redacted form. This submission also encloses a CD-ROM that contains AT&T's Comments in redacted form.

AT&T is separately submitting for handling under seal a copy of its Comments that contain material designated as confidential pursuant to the Protective Order in this matter. These documents bear a legend indicating that they are confidential.

If there are any questions concerning AT&T's submission in this matter, including matters relating to AT&T's confidential submission, please do not hesitate to contact me. Thank you for your attention to this matter.

Sincerely,

Richard H. Rubin / ha
Richard H. Rubin

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Application of Verizon New England, Inc.,)
Bell Atlantic Communications, Inc.) CC Docket No. 00-176
(d/b/a Verizon Long Distance), NYNEX)
Long Distance Company (d/b/a Verizon)
Solutions), and Verizon Global Networks,)
Inc., for Authorization to Provide In-Region,)
InterLATA Services in Massachusetts)

Opposition of AT&T Corp.

Pursuant to the Commission's Public Notice (DA 00-2159, released September 22, 2000), AT&T Corp. hereby submits its comments in opposition to Verizon's application to be permitted to provide interLATA service in the State of Massachusetts.

Summary

The linchpin of the Commission's prior analyses of Section 271 applications is a "pragmatic" assessment of whether "an efficient competitor [has] a meaningful opportunity to compete," based upon "the overall picture presented by the record."¹

¹ *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*, CC Docket No., 99-295, released December 22, 1999 ("New York Order"), ¶ 5.

When the instant application is viewed in this light, it is clear that Verizon's filing fails that test.

Try as it might, Verizon's application cannot mask the fact that broad scale competition for residential customers in Massachusetts has not occurred – and is simply not possible -- at this time. There are two reasons why Massachusetts consumers do not have effective competitive choices. First, because the rates for unbundled network elements are so high and not cost-based, UNE-P, the primary competitive vehicle for residential competition nationwide, has been unavailable to CLECs in Massachusetts. Verizon's last-minute tactic of filing new rates the business day before these comments were due does nothing to change this critical fact. Second, Verizon's wholly unsupported characterization of cable providers' current telephony capabilities – especially AT&T's -- is simply wrong. In particular, although AT&T Broadband is working to increase its cable telephony "footprint," today it can only offer such service to a minority of households in the state. As a result of these two factors, CLECs lack a meaningful opportunity to compete and the majority of Massachusetts consumers have no significant competitive options available to them. Accordingly, Verizon's application should be denied.

I. UNE Rates in Massachusetts Are Unlawful and Preclude UNE-P Competition

Stripped of its rhetoric, Verizon's filing demonstrates at most that only a very small proportion of residential customers have chosen competitive carriers to provide their local service. By Verizon's own count, only about 120,000 of the more than 2.9

million residential access lines in the state² are served by competitors, many by resale.³

Thus, contrary to Verizon's baffling claim (Brief at 1) that competition in Massachusetts is "proportionally even greater" than in New York, *residential* competition in Massachusetts is actually far behind the level of competition that existed in New York when the Commission granted Bell Atlantic's section 271 application for that state.

Critically, Verizon points to a total of only 5,900 UNE-P lines that have been provisioned to residential consumers in Massachusetts.⁴ There is a significant reason why UNE-P competition is virtually nonexistent in the state. As AT&T, WorldCom and others have repeatedly pointed out in proceedings at the state level,⁵ UNE rates in Massachusetts were not set in accordance with the applicable pricing principles of Section 252(d)(1) as defined by the Commission, and they are so high that CLECs must, on average, pay Verizon more for a UNE-P arrangement than Verizon charges residential

² *Statistics of Communications Common Carriers, as of December 31, 1999, Table 2.4 (Massachusetts has 2,919,491 analog (4Khz or equivalent) residential access lines).*

³ Declaration of William Taylor ("Taylor Decl."), Attachment A, Exhibit 2 (121,000 total residential lines, including 32,000 resale lines).

⁴ *Id.*

⁵ *E.g.*, Supplemental Joint Declaration of Dr. August H. Ankum and Vijetha Huffman on Behalf of WorldCom, Inc., Docket D.T.E. 99-271 (August 2000); Joint Declaration of Dr. August H. Ankum and Vijetha Huffman on Behalf of WorldCom, Inc., Docket D.T.E. 99-271 (July 18, 2000); Supplemental Comments of AT&T Communications of New England, Inc., Docket D.T.E. 99-271, at 8-15 (July 18, 2000); Petition of AT&T of Communications of New England, Inc., Requesting the Department to Review and Reduce Existing Recurring Charges for Unbundled Network Elements (March 13, 2000); Motion By AT&T Communications of New England, Inc., To Establish Permanent Recurring Rates For Unbundled Network Elements, Docket D.T.E. 98-15 (March 27, 1998).

end user customers for comparable retail service. As a result, there is no prospect for meaningful UNE-P competition in Massachusetts at this time.⁶ Because, as discussed below, AT&T's residential market plans focus on development of its cable telephony plant, AT&T's comments do not discuss in detail the UNE rate issues that are evident in Massachusetts. However, as other carriers, especially WorldCom, have demonstrated below, UNE-P is simply a financial non-starter for CLECs. AT&T understands that WorldCom will provide the Commission a detailed explanation of these issues in its separate opposition.

II. The Only Lawful and Procompetitive Response to Verizon's Filing of "New" UNE Rates is to Reject Its Section 271 Application

On October 13, 2000 -- the business day before these comments were due, 21 days after Verizon filed its application, and more than three and one-half years after the rates included in its application were first adopted -- Verizon filed new rates for certain unbundled network elements with the Massachusetts DTE.⁷ These rates, if considered at

⁶ This places the Massachusetts UNE pricing issue on a very different footing than the pricing issues in New York. There, even though the New York Commission had made some serious pricing errors, CLECs still had some margin between UNE prices and retail rates within which to compete. Here, in sharp contrast, there is no such room, and a CLEC attempting to use UNE-P on a broad-scale basis in Massachusetts is doomed to instant -- and perpetual--failure. *See New York Order* ¶ 244 (application will not be rejected for "isolated" factual findings regarding pricing but will be rejected if such errors are "substantial" and result in rates that are outside the reasonable range TELRIC principles would produce). That is clearly the case in Massachusetts

⁷ Letter from Gordon R. Evans, VP Federal Regulatory, Verizon to Magalie R. Salas, FCC, CC Docket No. 00-176, dated October 13, 2000.

all by the Commission, confirm that granting Verizon's application would violate both the competitive checklist and the public interest.

As a preliminary matter, Verizon's "new" rates were not a part of its initial application, and thus under well-established Commission precedent may not be considered to support any findings in favor of Verizon.⁸ If the new rates are considered at all, they are simply an admission that the rates that Verizon had been offering CLECs, and upon which Verizon had based its application, do not comply with the competitive checklist and are thus insufficient to permit the Commission to grant that application.

More fundamentally, however, Verizon's claim that it filed its new rates so that the old rates would not be a "distraction" in considering an otherwise meritorious application⁹ is plainly incredible. That claim evidences remarkable indifference to the anticompetitive consequences of Verizon's conduct, and Verizon's calculated determination to defeat the objective of Congress and the Commission to open local markets rapidly to competition. For this reason, merely to "restart the clock" on Verizon's application would be woefully insufficient.

The biggest problem with Verizon's old rates is not that they served as a "distraction" from the local monopolist's application to join hundreds of other carriers in providing long distance service in Massachusetts, but that they have foreclosed local

⁸ Public Notice, DA-99-1994, released September 28, 1999, at 3.

⁹ "Verizon Will Drop UNE Rates in Mass. In Wake of Complaints," Communications Daily's Washington Telecom Newswire, October 13, 2000, 12:45 pm.

competition -- especially for residential customers -- in that state. This is no secret to anyone, especially Verizon. As its Chairman has openly boasted, no carrier can profitably enter the local market using Verizon's unbundled network elements even at rates that are dramatically below those that Verizon had been offering to CLECs in Massachusetts.¹⁰ Thus, AT&T, WorldCom and other CLECs have argued for years that the rates originally approved by the DTE were unlawful and anticompetitive. There is thus no credible claim that Verizon did not know the impact of its anticompetitive rates, and the potential rewards available to it if the Commission tolerates its "rope a dope" tactic of filing revised rates that, at best, are nearly four years too late.

Critically, even if the rates Verizon now apparently offers were lawful and pro-competitive, the harm Verizon has already inflicted simply cannot be cured by its last-minute filing.¹¹ As long as Verizon's "old" rates were in effect, no entrant would engage

¹⁰ Reinhardt Krause, "Verizon's New York Fight Key To AT&T Challenge," Investor's Business Daily, August 15, 2000, Section A, p. 6 ("Whoever is buying (AT&T's) \$24.95 product (its basic local service package) knows they're not making any money on it," Seidenberg told analysts").

¹¹ Verizon's October 13 Massachusetts filing (p. 1) states that its "effect . . . is to make Massachusetts rates equivalent to the rates for Verizon NY." However, because New York and Massachusetts have different rate structures for UNEs, it is impossible to determine at this time whether Verizon's statement is correct, because Verizon offers no facts explaining how such "equivalence" was determined. (Among other things, Verizon does not explain why its rate for "Local Switching-Peak" in Metro areas is unchanged.) Moreover, even if Verizon's Massachusetts filing actually mirrored the currently effective New York rates, that would not warrant a finding that those rates are cost-based even for New York, much less for Massachusetts. The switching rate was approved by the New York Public Service Commission on an interim basis pending a re-examination necessitated by Verizon's earlier misrepresentations. On February 7, 2000 Verizon-New York filed proposed revised UNE rates for review by the NY PSC. Critically, Verizon-

(footnote continued on following page)

in the extensive planning and investment required to prepare for UNE-based local entry when it knew *for certain* that such entry could not possibly have been profitable. Thus, carriers such as WorldCom that have attempted to rely on the UNE platform for Massachusetts entry are almost certainly unprepared to do so today.

In addition, the unlawful rates that Verizon championed also have had the effect of denying to the DTE and the Commission evidence of Verizon's commercial performance, which the Commission correctly recognizes is the best evidence whether a BOC's OSS is nondiscriminatory and sufficient to meet competitive levels of demand.¹² Thus, Verizon's unlawfully high rates meant that no CLEC could enter the residential market in Massachusetts on a meaningful scale and thereby generate actual commercial usage, which could in turn be used to determine whether Verizon's OSS can support mass market entry.

(footnote continued from previous page)

New York's proposed rates for local switching common trunk port, tandem switch usage, tandem switch common trunk port and common transport are *lower* than the currently effective rates for those elements. Moreover, AT&T's June 26, 2000 reply to Verizon-New York's filing demonstrated that each of those proposed rates was significantly above the relevant measure of costs. In all events, based on the brief review of Verizon's new Massachusetts rates permitted by its belated filing, AT&T believes that the wholesale prices that a CLEC must pay to Verizon for basic residential local services using the UNE-Platform in Massachusetts will continue to exceed the retail prices charged by Verizon to residential customers for basic local service.

¹² *New York Order*, ¶ 89 ("The most probative evidence that OSS functions are operationally ready is actual commercial usage (citations omitted)").

Verizon's tactics have seriously impaired the competitive market in Massachusetts. Any carrier that may have considered entry based on the UNE platform since 1996, including AT&T, WorldCom and others, has been frozen out. But the harm that Verizon has inflicted will not be limited to Massachusetts if the Commission grants the instant application or, for that matter, any application that Verizon may choose to file within the next year. Should that occur, other RBOCs will be encouraged to employ similar tactics in other states, and other PUCs may not accord sufficient priority to the adoption of cost-based UNE rates and other measures that are essential to the opening of local markets. For this reason, it is absolutely essential that the Commission firmly reject Verizon's application, and its underlying intent to prevent all preparation for meaningful competition by maintaining UNE prices that are unlawfully and prohibitively high until it is far too late for new entrants to make the investments needed to permit local entry.

III. Verizon Has Significantly Overstated the Current Level of Cable Telephony Competition in Massachusetts

Verizon attempts to deflect attention away from the abysmal state of residential competition in Massachusetts through the UNE-platform by focusing upon AT&T's cable operations in Massachusetts. But Verizon submits no probative evidence with respect to AT&T's operations, and its speculation about them is false. Verizon thus presents an extremely misleading picture of the state of residential competition in Massachusetts.

As a preliminary matter, Verizon has submitted absolutely no probative evidence regarding AT&T's cable facilities and operations in Massachusetts. Rather, Verizon merely submits unsupported assertions by its outside economist, who presents no

qualifications entitling his assertions to any weight. This is not “evidence” and thus does not support Verizon’s claims.¹³

More fundamentally, Verizon’s speculative assertions are flat wrong. Through Mr. Taylor, Verizon states that:

“AT&T’s cable network in Massachusetts – which has been upgraded to provide telephony services – serves 2.1 million cable subscribers in the Boston area and 38 suburbs, and passes approximately 80 percent of all Massachusetts households.” Taylor Decl., Attachment A ¶ 19.

It is certainly true that AT&T’s preferred strategy for entering local markets is through the use of its own facilities, in lieu of relying on facilities provided by the incumbent whose monopoly it is attempting to break. That strategy was a primary factor behind AT&T’s purchase of TCI and MediaOne. Because AT&T owns a significant amount of cable plant in Massachusetts, it is thus focusing its efforts to provide local telecommunications service to residential customers in Massachusetts on the cable facilities it owns in that State. But Mr. Taylor substantially overstates AT&T’s cable coverage in Massachusetts, and radically overstates AT&T’s ability to serve Massachusetts customers with a cable *telephony* offering today. As set forth in the accompanying declaration of Mr. David Kowolenko (“Kowolenko Decl.”), AT&T

¹³ Mr. Taylor does not and cannot claim any direct knowledge of his own on this matter. With the exception of one AT&T press release (which merely announces the closing of the AT&T/MediaOne merger and contains no information at all about Massachusetts), Mr. Taylor’s declaration is cobbled together solely from snippets in various newspaper articles. He does not, however, cite any data, any published company reports, or any independent analyses for his demonstrably erroneous claims regarding the scope and status of AT&T Broadband’s deployment of cable telephony plant. This does not represent reliable “evidence” of anything at all, except perhaps Mr. Taylor’s and Verizon’s casual approach to the facts.

Broadband's General Manager for Digital Phone operations in Massachusetts, and based upon Mr. Kowolenko's personal knowledge (*id.* ¶ 1), the true facts are as follows:

- First, AT&T Broadband serves only 1.1 million customers, or about half the amount claimed by Mr. Taylor, and none in Boston.¹⁴ Moreover, according to the DTE, there were only 1.93 million cable subscribers *in the entire state* at the end of 1999.¹⁵
- Second, although AT&T Broadband's cable television network passes about 1.67 million homes of the 2.35 million homes in the state¹⁶ (*i.e.*, about 70%), by the end of this year AT&T Broadband's cable *telephony* footprint will only cover less than ***** of its total homes passed. Accordingly, by the end of 2000, AT&T Broadband will only be able to provide telephony service to about ***** percent of all homes in Massachusetts, a minority of the homes in the state.¹⁷

¹⁴ Kowolenko Decl., ¶ 4.

¹⁵ Massachusetts Department of Telecommunications and Energy, Cable Division Website; <http://www.magnet.state.ma.us/dpu/catv/index.htm>; Statistics as of 12/31/99.

¹⁶ US Census Estimates of Housing Units, Households, Households by Age of Householder, and Persons per Household: July 1, 1998, located at <http://www.census.gov/population/estimates/housing/sthuhh.txt>, Internet release date, December 8, 1999.

¹⁷ Kowolenko Aff., ¶ 5.

- Third, to the extent that Mr. Taylor's figures include anticipated coverage of both AT&T Broadband and Cablevision properties in the state, two critical facts are of note. As an initial matter, while AT&T and Cablevision have entered into Merger Agreement(s) regarding these properties, this transaction has not yet been finalized. As a result, there is no basis for Mr. Taylor's assumption that AT&T Broadband's cable television service area includes the Cablevision properties. More important, however, is the fact that *none* of the Cablevision properties in Massachusetts are capable of providing telephony services.¹⁸
- Finally, AT&T Broadband's efforts to equip the remainder of its entire cable network to in Massachusetts will take significant additional time, because such improvements are heavily dependent upon labor availability and costs, as well as capital and NXX code availability.¹⁹

In sum, Mr. Taylor's assertions regarding telephony competition from AT&T Broadband's cable systems are entitled to no weight as an evidentiary matter, and are

¹⁸ *Id.* ¶ 6.

¹⁹ The upgrading of cable facilities to provide telephony is costly and takes significant time to implement, both on a network and customer-specific basis. In addition to the time and expense required for such upgrades, it takes more time and work to transfer each individual customer over from Verizon local service to AT&T Broadband's cable-based local telephone service. More specifically, even with cable telephony plant and efficient systems in place, customers cannot be transferred to cable telephony service on the same mass basis as can be done with UNE-P. The physical work needed to connect a cable-telephony customer takes approximately 2 hours and can take significantly longer, depending on whether additional broadband services, such as high-speed Internet access or digital television are also being provisioned. Kowolenko Decl. ¶¶ 7-8.

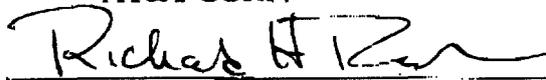
wrong as a matter of fact. Cable telephony competition is currently limited to a minority of Massachusetts homes, meaning that in *more than half* of the state, not a single CLEC has a meaningful opportunity to compete against Verizon for residential customers. For those customers, if Verizon's application is granted, Verizon will continue its current monopoly hold over local service and also have a virtual monopoly over customers who desire to purchase all of their telecommunications services from a single carrier.

Conclusion

Verizon's local markets in Massachusetts are not open to competition. As a result, its application for authorization to provide interLATA services in Massachusetts should be denied.

Respectfully submitted,

AT&T CORP.



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October 16, 2000

CC Docket No. 00-176, Opposition of AT&T
Declaration of David Kowolenko
October 16, 2000
Public (Redacted) Version

Before the
Federal Communications Commission
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In the Matter of)
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Application of Verizon New England, Inc.,)
Bell Atlantic Communications, Inc.) CC Docket No. 00-176
(d/b/a Verizon Long Distance), NYNEX)
Long Distance Company (d/b/a Verizon)
Solutions), and Verizon Global Networks,)
Inc., for Authorization to Provide In-Region,))
InterLATA Services in Massachusetts)

DECLARATION OF DAVID J. KOWOLENKO

1. My name is David J. Kowolenko, and I am employed by AT&T Broadband, formerly MediaOne, as General Manager of Digital Phone operations. AT&T Broadband provides its Digital Phone service to customers via its facilities-based cable network. In this position, I oversee the all operations of AT&T Broadband's Digital Phone service in Massachusetts, New Hampshire and Connecticut (the "Northeast Region") including network architecture, engineering, operational support systems, budgeting and marketing. This declaration is based on my personal knowledge of AT&T Broadband's operations.

2. I have over thirteen years of experience in the telecommunications industry, focusing mainly on engineering, operations and maintenance. I have been employed by MediaOne/AT&T Broadband for the past three and one half years, and in my current position since December, 1999. From January 1997 through December 1999 I was the Director for Telecommunications for MediaOne, with responsibility for overseeing the engineering and operations of its Digital Phone service. Prior to that, I was employed

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by Southern New England Telephone, working in the Electronic Systems Assistance

Center (ESAC). I served as an engineer and a manager, providing second-tier support for the resolution of complex switching-system issues, including switch outages, customer service-affecting problems and new product introduction. I also oversaw the testing and introduction of one of the first hybrid fiber-coax (HFC) telephony launches in the United States.

2. I have reviewed the Declaration of William E. Taylor, including Attachment A thereto, which purports, in part, to describe AT&T Broadband's cable telephony network and "footprint" in Massachusetts. The purpose of my statement is to correct Mr. Taylor's inaccurate statements about AT&T Broadband's current capability to provide cable telephony services in Massachusetts. Mr. Taylor's statements dramatically overstate AT&T Broadband's current telephony capabilities in the state.

3. Mr. Taylor states the following at ¶ 19 of Attachment A to his declaration:

AT&T Broadband's cable network in Massachusetts – which has been upgraded to provide telephony services – serves 2.1 million cable subscribers in the Boston area and 38 suburbs, and passes approximately 80 percent of all Massachusetts households.

4. This statement is factually incorrect for the following reasons. While AT&T Broadband is indeed the largest cable operator in the state with approximately 1.1 million cable customers, none in Boston, and according to statistics maintained by the Massachusetts Department of Telecommunications and Energy, (the "Department") AT&T Broadband has a 60% market share of cable subscribers in Massachusetts.¹ In

¹ Massachusetts Department of Telecommunications and Energy, Cable Division Website; <http://www.magnet.state.ma.us/dpu/catv/index.htm>; Statistics as of 12/31/99.

addition, also according to the Department's statistics, on December 31, 1999 there were only 1.93 million cable subscribers in the *entire* state of Massachusetts.

5. AT&T Broadband's cable television system in Massachusetts passes approximately 1.67 million (approximately 70%) of the 2.35 million homes² in the state. In sharp contrast to Mr. Taylor's statement, however, AT&T Broadband's entire cable footprint has *not* been upgraded to provide telephony services. Currently, AT&T Broadband's telephony footprint covers less than *PROPRIETARY* of AT&T Broadband's total homes passed for cable television service in Massachusetts. In fact, by the end of 2000, AT&T Broadband's cable telephony network will pass only approximately *PROPRIETARY* percent of all homes in Massachusetts, a minority of the homes in the state. Moreover, although AT&T Broadband is moving forward diligently to equip its entire cable network to provide telephony services, its ability to do so will take significant additional time, because such improvements are heavily dependent upon labor availability and costs, as well as capital and NXX code availability.

6. It also appears that Mr. Taylor's declaration relies in part upon AT&T Broadband's planned acquisition of Cablevision properties in and around the Boston area. To the extent it does, however, it is entirely premature and without basis. While AT&T and Cablevision have entered into Merger Agreement(s) regarding these properties, this transaction has not yet been finalized. As a result, there is no basis for Mr. Taylor's assumption that AT&T Broadband's cable television service area includes the

² US Census Estimates of Housing Units, Households, Households by Age of Householder, and Persons per Household: July 1, 1998, located at <http://www.census.gov/population/estimates/housing/sthuhh.txt>, Internet release date, December 8, 1999.

Cablevision properties. More important, however, regardless of the date when the

Cablevision properties may be acquired by AT&T Broadband, *none* of the Cablevision properties in Massachusetts is capable of providing cable-telephony.

7. The establishment of a cable-telephony network is time and labor intensive.

Moreover, the operation and maintenance of residential telephone service over a facilities-based cable network differs drastically from a service delivered via UNE-P. Existing cable infrastructure must be physically upgraded to provide telephony services, and cannot be accomplished by simply purchasing existing network elements from the incumbent. In order to establish a cable-telephony footprint in Massachusetts, AT&T Broadband must build interconnection facilities,³ including trunking and additional equipment; as well as purchase and install its own switches – all of which are extremely labor and cost intensive and heavily dependent upon capital availability.

8. The physical act of connecting a new cable-telephony customer is also time and labor intensive. Unlike UNE-P, each new AT&T Broadband telephony customer requires an in-home visit by a technician, with at least two hours allotted for the installation of the telephony-only product. Multi-product installations⁴ may take up to five hours. In addition, significant time is devoted to the provisioning of a new customer's service, especially if the customer is porting its number from Verizon. In that case, installation cannot even be *scheduled* until four days after the order is taken to

³ Currently AT&T Broadband and Verizon interconnect over two mid-span fiber meet points in Massachusetts. Construction of these facilities is very labor intensive.

⁴ Multi-product installations can include installation of AT&T Broadband's Digital Phone service, high-speed Internet service as well as Digital Television service during the same technician visit.

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account for the industry agreed to porting interval. Further delay in a customer's installation may occur if the port itself must be cancelled on the scheduled installation date and the four-day clock must start anew.

9. Simply put, AT&T Broadband's telephony footprint is not as broad as Mr. Taylor claims and the majority of residential customers in Massachusetts do not have access to cable-based telephony services.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 16, 2000.

/s/ David J. Kowolenko

David J. Kowolenko

installation may occur if the port itself must be cancelled on the scheduled installation date and the four-day clock must start anew.

9. Simply put, AT&T Broadband's telephony footprint is not as broad as Mr. Taylor claims and the majority of residential customers in Massachusetts do not have access to cable-based telephony services.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 13, 2000.

A handwritten signature in black ink, appearing to read "DKO", is written over a horizontal line.

David J. Kowolenko