

VI. Maintenance and Repair.

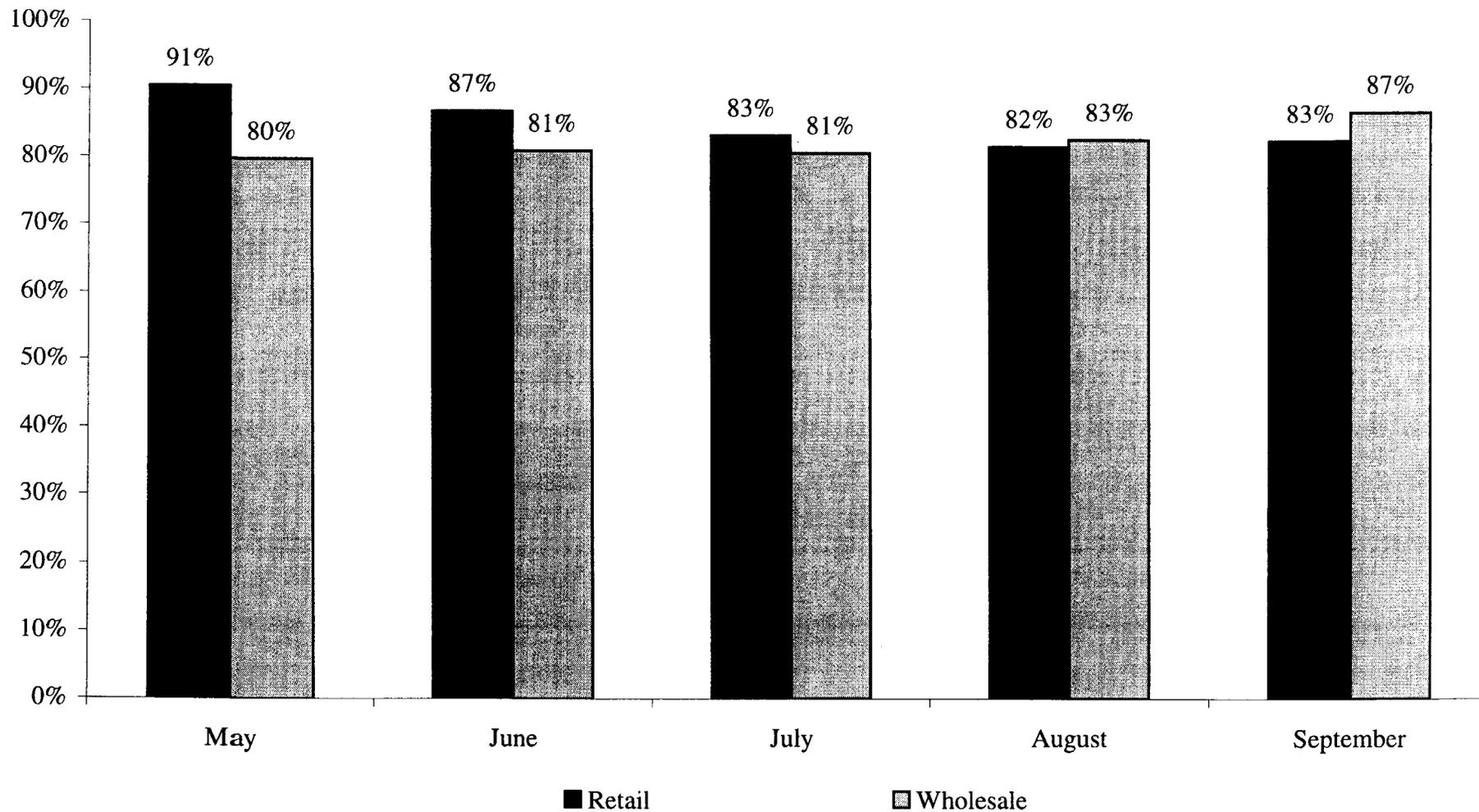
A. The DTE found: “VZ-MA provides maintenance and repair for CLEC xDSL loops in substantially the same time and manner as it does for retail customers.” DTE Eval. at 322.

B. Verizon's on-time repair performance demonstrates parity.

The measure of missed repair appointments shows parity (MR 3-01).

C. As noted above, the measure of repeat trouble reports shows fewer repeat reports for CLECs (MR 5-01).

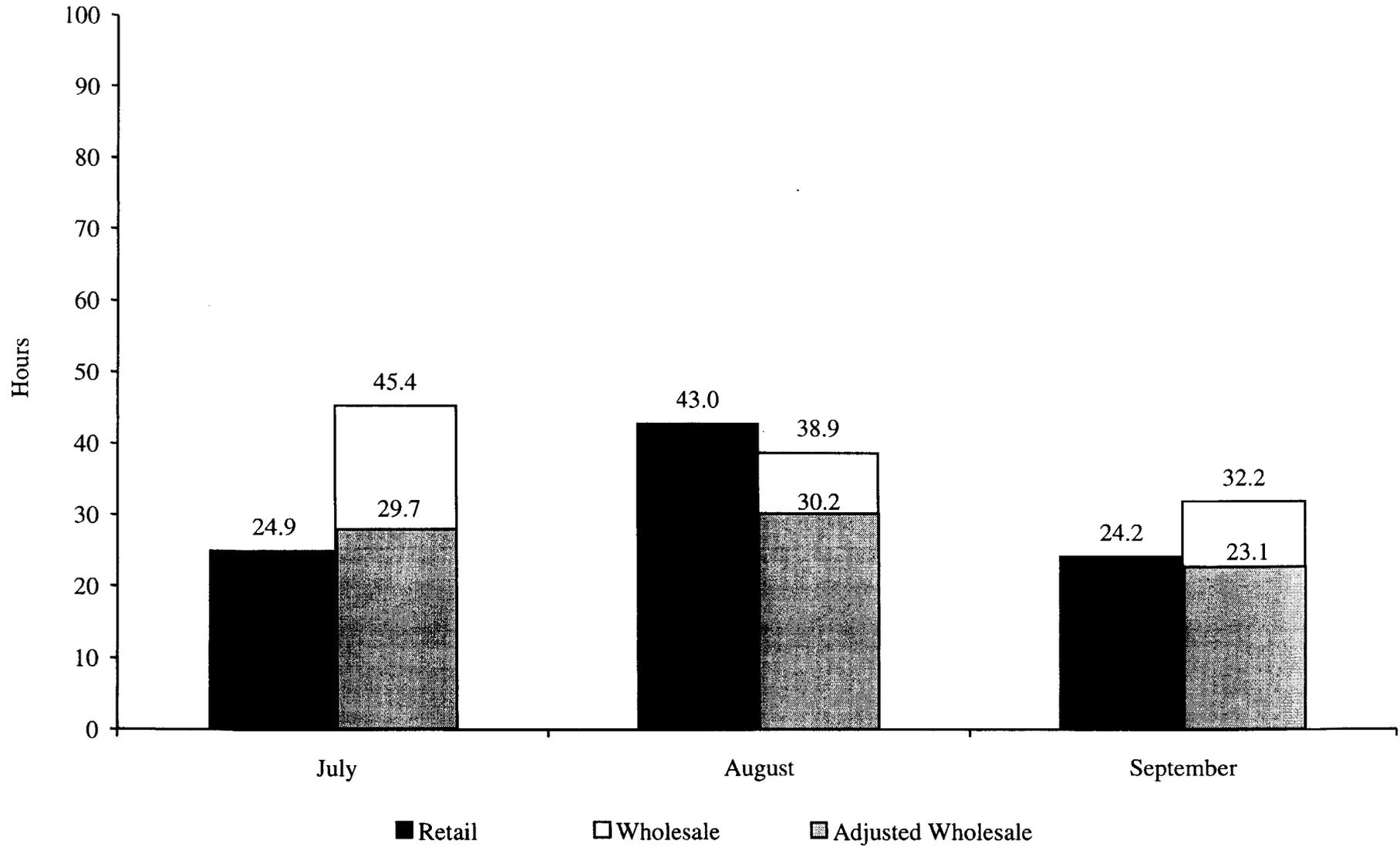
## Percent Appointments Met\* Loop Troubles



\* Inverse of MR 3-01

- D. Interval measures such as mean time to repair are affected by CLEC behavior (MR 4-01).
1. The DTE found that “VZ-MA’s maintenance and repair performance is hindered by” CLEC practices:
    - a. “CLECs’ inability to identify the source of the trouble.”
    - b. “[T]he propensity of some CLECs to accept loops they concede are unable to support xDSL service absent additional work by VZ-MA technicians.”
    - c. “[T]he preference for Monday and not weekend repair appointments.” DTE Eval. at 320.
  2. The DTE found: “[A]scribing the consequence of a CLEC business decision to a purported VZ-MA failure appears unwarranted.” DTE Reply Comments at 80.
  3. Adjusting for just the latter two factors shows parity.

## Mean Time to Repair, MR 4-01



VII. Conclusion: Verizon meets the checklist.

A. The DTE found: “VZ-MA is performing as a wholesale provider should. It gives CLEC customers the service they request.” DTE Eval. at 306.

1. The DTE replicated Verizon’s DSL measures:

a. Its “results matched VZ-MA’s reported performance exactly in all but four instances. . . . [T]he differences in these four cases are the result of rounding error and not misreporting on the part of VZ-MA.” DTE Reply Comments at 22-23.

2. The DTE evaluated Verizon’s explanations:

a. “With the exception of one VZ-MA study related to longer provisioning intervals . . . all of VZ-MA’s justifications for its performance data were addressed in its May and August, 2000, filings and during the August technical sessions.” DTE Reply Comments at 61-62.

- B. Verizon will continue to provide good service.
1. Verizon has a strong business incentive to provide good wholesale service to avoid losing customers to facilities-based cable providers.
  2. The PAP approved by the DTE includes key measures of DSL performance.
  3. Once the Performance Assurance Plan is effective, Verizon will follow the Plan (including, if appropriate, seeking a waiver for certain measures) in providing bill credits to CLECs, even if particular measures are flawed.
  4. The first annual review of the New York PAP is underway, and modifications adopted there will also apply to Massachusetts.
    - a. The DTE already has decided to make DSL a separate mode of entry which will put dollars at risk based just on Verizon's *overall* DSL performance for CLECs.
    - b. Verizon has proposed to substantially increase the number of DSL-specific measures included in the PAP.
    - c. The Massachusetts DTE has stated that its approach going forward, "Without limiting our right to evaluate potential changes or additions to the adopted metrics, is to incorporate into the Massachusetts PAP whatever new metrics, if any, the New York PSC adopts for the New York PAP." DTE 99-271, *Order adopting Performance Assurance Plan* at 26 (App. B, Tab 559).

- C. Verizon's Separate Data Affiliate is now fully operational in Massachusetts, more than a month before it is required to be by the merger order.

As the FCC has concluded, the Separate Data Affiliate will ensure continued non-discriminatory performance in the future: Establishment of separate data affiliate provides "further assurance that competing carriers . . . will have nondiscriminatory access to xDSL-capable loops. . . ." New York Order ¶¶ 330-331

## INDEX TO DSL EVIDENCE

<i>What VZ demonstrated to the DTE</i>	<i>What the DTE found</i>	<i>What VZ demonstrated to the FCC</i>
<b>A. Installation Timeliness</b>		
<b>1. Verizon demonstrated that it is providing xDSL loops to CLECs on time.</b>		
<p>Verizon demonstrated that, in first quarter 2000, its on-time performance for xDSL loops reached 96 percent for completed orders (i.e., excluding no-access and no-facilities situations) using data that was collected following the same parameters as are used in the Performance Assurance Plan (PAP). App. B, Tab 423, at Checklist Aff. ¶ 103.</p> <p>Verizon demonstrated that, from March through June 2000, its on-time performance exceeded 96 percent for completed orders using data that was collected following the same parameters as are used in the PAP. App. B, Tab 494, at Checklist Aff. ¶ 96.</p> <p>Verizon demonstrated that this strong on-time performance continued in July 2000. App. B, Tab 552.</p>	<p>“VZ-MA is performing as a wholesale provider should. It gives CLEC customers the service they request.” DTE Eval. at 306.</p> <p>“The more experience VZ-MA gains, the better its performance becomes.” DTE Eval. at 305.</p> <p>“[Verizon’s] provisioning intervals, for both its retail ADSL service and the service it provides to CLECs, are decreasing, as are the percentage of missed installation appointments.” DTE Eval. at 305.</p> <p>“We affirm our findings contained in our Evaluation: VZ-MA provisions xDSL loops to CLECs when CLECs request them.” DTE Reply at 74.</p>	<p>Verizon demonstrated in its application that, during June and July, its on-time performance for DSL loops met or exceeded 95 percent in each of the separate reporting categories included in the PAP. Application at 18; L/R ¶ 96; G/C Att. M.</p> <p>Verizon submitted C2C reports demonstrating that, from May through July, Verizon met between 96 and 97 percent of its appointments for all xDSL loop orders. G/C Att. E.</p> <p>Verizon again pointed to this strong on-time performance in its Reply Comments. Reply Comments at 6; L/R Reply ¶ 57.</p> <p>Verizon also filed with its application all the evidence that was included in the state record.</p>
<p>Verizon demonstrated that it provides CLECs with the due dates they request. Verizon conducted a study of approximately 3,000 June orders for two-wire digital and DSL loops and found that almost all of these orders received the date that was requested or that is set forth in the C2C guidelines. App. B, Tab 520, at 2527-2528 (old numbering); App. B, Tab 565, at 5632 (old numbering).</p>	<p>“CLECs receive their requested xDSL provisioning interval approximately 99 percent of the time.” DTE Eval. at 306.</p>	<p>Verizon demonstrated in its application that, in June 2000, the average interval offered for pre-qualified wholesale xDSL orders was at parity with retail. It also demonstrated that, in July, there was less than one-third of a day difference, which is smaller than the half-day difference the Commission found was not competitively significant in New York. Verizon further demonstrated that the average intervals offered for loops that required qualification in June and July were well within the 9-day interval for such loops. G/C ¶¶ 79, 81 &amp; Att. K.</p>

		Verizon also filed in its application all the evidence that was included in the state record.
<p>Verizon provided CLEC-specific data to verify its on-time performance:</p> <p>∃ Verizon submitted evidence of a DTE-supervised data reconciliation of Covad's orders from February 7-11, 2000, which found that Verizon timely completed 92 percent of Covad orders once orders that Covad incorrectly ascribed as Verizon misses were properly excluded. App. B, Tab 423, at Checklist Aff. ¶ 207.</p> <p>∃ Verizon also demonstrated that its on-time performance for Covad's xDSL loops improved every month from October 1999 to March 2000 under the measurements used in the C2C performance reports. App. B, Tab 423, at Checklist Aff. ¶ 207.</p> <p>∃ In response to a DTE Information Request, Verizon provided CLEC-specific data for missed appointment measurement from October 1999 to February 2000 for UNE Complex Services. App. B, Tab 443 (response to Information Request DTE 5-13) (proprietary).</p>	<p>∃ "Earlier this year, the Department oversaw a data reconciliation between VZ-MA and Covad for 132 of Covad's orders completed between February 7-11, 2000. The carriers agreed that 116 of the orders were completed on time. In addition, through this reconciliation, it was determined that six orders scored as 'misses' should have been counted as 'met,' increasing VZ-MA's on-time performance to 92 percent." DTE Eval. at 308-309.</p> <p>∃ "[W]e do not consider Covad's data to demonstrate poor provisioning performance." DTE Eval. at 308.</p> <p>∃ "Until we read Covad's FCC comments, we were unaware that this lack of CLEC-specific data posed a hindrance to Covad because Covad never raised this issue during our proceeding. Indeed, the only requests made to VZ-MA for CLEC-specific non-hot cut loops during this year's § 271 proceeding came from the Department; and we heard nothing about the matter from Covad until its October 16 comments." DTE Reply at 70 &amp; n.231.</p> <p>"Neither Covad nor Rhythms mentioned any VZ-MA refusal to provide CLEC-specific data in our § 271 proceeding (or in any other Department proceeding)." DTE Reply at 75.</p>	Verizon filed in its application all the evidence that was included in the state record.

<p>∃ Verizon demonstrated that, from October 1999 through March 2000, it met 94.2 percent of its installation appointments for Vitts, and that in March Verizon met nearly 98 percent of its appointments for Vitts. App. B, Tab 423, at Checklist Aff. ¶ 210.</p> <p>∃ Verizon demonstrated that, in March 2000, its on-time performance for Rhythms increased to more than 95 percent despite a big increase in order volume. App. B, Tab 432, at Checklist Aff. ¶ 211.</p>	<p>∃ “Vitts has not contested VZ-MA’s performance this year.” DTE Eval. at 301.</p> <p>∃ “VZ-MA reviewed Rhythms’ claims and noted that its C2C Guidelines data for Rhythms indicate that its percentage of missed appointments dropped from over 21 percent in October, 1999, to 4.73 percent in March, despite a tenfold increase in Rhythms’ orders.” DTE implies that Rhythms dropped these claims, noting that “Covad is the only carrier that continues to make specific claims about VZ-MA’s provisioning performance.” DTE Eval. at 302.</p>	
<p><b>2. Verizon demonstrated that it is providing loops in a non-discriminatory manner.</b></p>		
<p>Verizon demonstrated that it is completing pre-qualified xDSL loops at least as quickly as retail orders, even though unbundled loop orders are more complicated to provision:</p> <p>∃ Under the measurements used in the C2C performance reports, Verizon demonstrated that, in second quarter 2000, the average interval offered and average interval completed for xDSL loops was roughly the same for wholesale and retail. App. B, Tab 537.</p>	<p>∃ “VZ-MA’s performance data indicate that it generally provisions xDSL loops for CLECs in approximately the same amount of time that it provisions xDSL loops for its own retail service.” DTE Eval. at 298.</p> <p>Verizon’s “provisioning intervals, for both its retail ADSL service and the service it provides to CLECs, are decreasing.” DTE Eval. at 305.</p> <p>“We affirm our findings contained in our Evaluation: VZ-MA provisions xDSL loops to CLECs when CLECs request them.” DTE Reply at</p>	<p>Verizon demonstrated that, from May through July 2000, the weighted average interval completed for itself and CLECs was at parity. In addition, Verizon submitted evidence in its Application of a study of randomly selected DSL orders from June and July that updated and expanded upon a study in the state proceeding and demonstrated that, for pre-qualified loops, the average offered and completed intervals for wholesale and retail were at parity. Verizon further noted that, because unbundled DSL loops are much more difficult to install than retail DSL service, the fact that performance is comparable for the two services means that CLECs actually receive service that is superior to what Verizon provides itself. Application at 24; G/C ¶ 79-80 &amp; Att. K; L/R ¶ 100-101.</p> <p>Verizon again pointed to this performance in its Reply Comments. Reply Comments at 9-10; L/R</p>

<p>∃ Verizon conducted a study of 144 randomly selected xDSL-loop orders from January and February 2000. The study found that the average completed interval for these loops was 7.6 days. App. B, Tab 423, at Measurements Aff. ¶ 70. (In January and February 2000, DSL was not separately backed out from other complex services in the C2C reports; Verizon’s own average intervals for complex services in January and February were 7.58 days and 8.34 days, respectively. App. B, Tab 424.) In response to a DTE request, Verizon provided supporting documentation for its interval study. App. B, Tab 443 (response to Information Request DTE 5-30).</p>	<p>74.</p> <p>∃ “In response to DOJ’s concern that we may have relied upon a VZ-MA study of POTS lines to support our finding that VZ-MA provisions XdsL loops to CLECs when they request them, we note that in its May measurements affidavit, VZ-MA discussed a study of randomly selected xDSL orders from January and February 2000. The Department requested and received the supporting documentation for this study, which indicates that for xDSL orders requiring a dispatch, CLECs miscoded approximately 30 percent of the orders, CLECs request longer than the stated interval but neglected to code those orders with an ‘X’ instead of a ‘W.’ The Department expects this clarification, which we neglected to make explicit in our Evaluation, will resolve any of the DOJ’s concerns about any inappropriate reliance on VZ-MA’s POTS studies.” DTE Reply at 75-76.</p>	<p>Reply ¶ 58.</p> <p>Verizon also filed in its application all the evidence that was included in the state record.</p>
<p>Verizon demonstrated that interval measures – such as orders completed within 6 days (PR-3-10) – do not accurately measure Verizon’s performance. First, Verizon, noted that the correct interval for CLEC orders that are not prequalified – which make up the bulk of all CLEC DSL loop orders – is nine days, not six. App. B, Tab 565 at 5632 (old numbering). Second, Verizon demonstrated that CLECs often request a longer interval than 6 days, but that CLECs often do not code their orders properly so that interval measures such as PR-3-10 do not capture this fact. App. B, Tab 423, at Measurements Aff. ¶ 70; App. B, Tab 494, at Measurements Aff. ¶ 19. Verizon demonstrated that this coding problem is confirmed by the fact that CLECs are given the intervals they request. App. B, Tab 520, at 2527-2528 (old numbering); App. B, Tab 565, at 5632 (old numbering).</p>	<p>“VZ-MA has testified before the Department that its retail representatives do not use manual loop qualifications or engineering queries, which will add additional time to the process. . . . It is only logical that this added step would increase provisioning intervals for CLECs, thus making it appear that VZ-MA’s performance for CLECs is out of parity, when in fact it is not out of parity.” DTE Eval. at 306.</p> <p>“VZ-MA has explained persuasively how including loops that are pre-qualified and loops that require manual loop qualification in the measure creates a mis-impression of a lack of parity.” DTE Eval. at 307.</p>	<p>Verizon demonstrated in its application that loops that have not been prequalified are included in the data that go into the percent completed in 6 days measure (PR-3-10), and that as a result the reported results incorrectly appear as though Verizon is providing better service to itself than to CLECs. Application at 24; L/R ¶¶ 100-101; G/C ¶¶ 78-81.</p> <p>In response to complaints about Verizon’s provisioning performance and attempts to rely predominately on PR-3-10, Verizon reiterated in its reply comments that PR-3-10 does not reflect Verizon’s performance, and is skewed, <i>inter alia</i>, by the fact that many CLEC loop orders have not been prequalified. Reply Comments at 8; L/R Reply ¶¶ 61-65; G/C Reply ¶ 10. Drs. Gertner and Bamberger confirmed that the reported results are skewed by CLEC behavior, and that one simple fact</p>

		<p>accounts for about 50 percent of the apparent difference in the percentage of Verizon and CLEC orders completed within 6 days. G/B Reply ¶¶ 21, 23, 24.</p> <p>Verizon also filed in its application all the evidence that was included in the state record.</p>
<p><b>3. Verizon demonstrated that there was no backlog of orders.</b></p>		
<p>Verizon testified (and provided supporting proprietary data, DTE No. 3) that VZ reviewed nearly 100 percent of Covad's so-called backlog orders and found that 22 percent had been completed and Covad had given Verizon a serial number; 7 percent had been canceled; 28 percent had been queried back to Covad for errors (they didn't even appear to be MA PONs); and 31 percent came in and are due since the strike. This left less than 1 percent on the backlog. App. B, Tab 520, at 2522 (old numbering).</p>	<p>"Covad acknowledges that it did, indeed, include 'no facilities available' in the category of a VZ-MA caused canceled order, constituting 32.4 percent of the total. Covad also admitted that it erroneously included orders that were canceled because a duplicate order was issued (6.5 percent of the total). Moreover, Covad indicates that eleven percent of the total is attributable to canceled orders due to long loops; eight percent due to trenching; two percent is due to the presence of digital loop carrier; and one percent of the total orders that were canceled is attributable to electronics on the line." DTE Eval. at 302-303.</p>	<p>As described above, Verizon demonstrated in its application that it completes more than 95 percent of DSL loop orders on time. Application at 18; L/R ¶ 96; G/C Att. M; G/C Att. E at 10, 24, 38.</p> <p>Verizon also filed in its application all the evidence that was included in the state record.</p>
<p><b>B. Loop Quality</b></p>		
<p><b>1. Verizon demonstrated that it provides quality loops to CLECs.</b></p>		
<p>Verizon demonstrated that the overall network trouble report rate for CLECs was very low. App. B, Tab 565, at 5633 (old numbering). Verizon submitted C2C reports demonstrating that this was the case throughout second quarter of 2000. App. B, Tab 537.</p>	<p>"[W]e find that VZ-MA provides nondiscriminatory access to loop installation for xDSL loops." DTE Eval. at 314.</p>	<p>Verizon demonstrated in its application that it was providing loops at a level of quality sufficient to permit competitors a meaningful opportunity to compete. It submitted evidence that, from May through July 2000, the overall network trouble report rate for CLECs was very low under the measurements used in the C2C performance reports. G/C Att. E.</p> <p>Verizon also filed in its application all the evidence that was included in the state record.</p>
<p>Verizon demonstrated that the low network trouble report rate is confirmed by the high incidence of</p>	<p>"According to VZ-MA, a majority, almost 60 percent, of the troubles were closed to NTF codes .</p>	<p>Verizon demonstrated in its application that, in July, more than 80 percent of CLEC repair requests</p>

<p>trouble reports that are closed with No Trouble Found:</p> <p>Verizon submitted data that, from January to March 2000, approximately 50 percent of all CLEC reported troubles were closed with No Trouble Found. App. B, Tab 423, at Checklist Aff. ¶ 253.</p> <p>Verizon submitted data that, in July 2000, the majority (59 percent) of the troubles on DSL loop troubles were closed with No Trouble Found. DTE Eval. Att. F (Response to DTE RR-323); App. B, Tab 494, at Checklist Aff. ¶ 145.</p> <p>Verizon submitted CLEC-specific data demonstrating that, from April to June 2000, the majority of trouble reports submitted by virtually all individual CLECs were closed with No Trouble Found. App. B, Tab 550 (Response to DTE RR 324) (proprietary).</p>	<p>. . It appears from our record that no CLEC is disputing VZ-MA's explanation of the disparity [between wholesale and retail] in numbers of trouble tickets issued (i.e., CLECs accept loops and file trouble tickets immediately thereafter)." DTE Eval. at 311-312.</p>	<p>that were submitted on DSL loops were traced to either problems that should have been revealed during acceptance testing, or were closed with no trouble found. Application at 25-26; L/R ¶¶ 104-105.</p> <p>Verizon again noted this in its Reply Comments. Reply Comments at 12.</p> <p>Verizon also filed with its application all the evidence that was included in the state record.</p>
<p>Verizon demonstrated that 56 percent of the installation troubles submitted by Covad between April 15 and June 15, 2000, resulted in no trouble found. Combined with the fact that Covad submits trouble reports for only a small fraction of its loops, the fact that most of these trouble reports result in no trouble found demonstrates that an even smaller fraction of its loops have actual troubles of any kind. App. B, Tab 494, Checklist Aff. at ¶ 144.</p>	<p>"Covad is incorrect when it states that 'at least 44% of the loops [VZ-MA] delivered to Covad were non-functioning loops.' . . . According to VZ-MA, Covad reported installation troubles within 30 days of an installation (captured by PR-601) during April through June 2000, for [a small, single digit percent] of its completed installations. The figure of 'at least' 44 percent of loops with a found 'trouble' cited by Covad does not represent 44 percent of <u>all</u> loops provisioned to Covad but, rather [a small, single digit percent] of all loops VZ-MA provisioned to Covad during this three month period. This figure is a far cry from 44 percent of the loops delivered by VZ-MA to Covad." DTE Reply at 80.</p> <p>"In its comments to the FCC, Covad dramatically overstates the number of its loops that experience troubles within 30 days of provisioning. The</p>	<p>Verizon demonstrated in its application that, in the case of one major CLEC, 56 percent of repair requests from April 15 to June 15, 2000, were resolved with no trouble found, and 90 percent of the remainder were outside facilities issues that a properly performed acceptance test by the CLEC would have disclosed. Application at 26; L/R ¶ 105.</p> <p>In response to Covad's claim that Verizon's statement constituted an admission that 44 percent of the loops provided to Covad did not work, Verizon noted that its earlier statement that 56 percent of the trouble reports submitted by Covad were closed with no trouble found has no bearing on the percentage of total loops with trouble reports. Verizon demonstrated that, in fact, Covad submits trouble reports for only a small fraction of its loops, and that most of these trouble reports</p>

	<p>accurate number, provided above, is a fraction of the 44 percent it claims and is not indicative of discriminatory behavior by VZ-MA.” DTE Reply at 82-83.</p>	<p>result in no trouble found, which shows that an even smaller fraction of Covad’s loops (in the low single digits) have actual troubles of any kind. Reply Comments at 12 n.11; L/R Reply ¶ 67.</p> <p>Verizon also filed with its application all the evidence that was included in the state record.</p>
<p><b>2. Verizon demonstrated that the “trouble report within 30 days” results that are reported do not accurately measure Verizon’s performance, but instead reflect CLEC behavior (such as accepting loops that are not suitable for the service they want and filing trouble reports).</b></p>		
<p>Verizon demonstrated that, in July 2000, more than 75 percent of the 594 loops on which CLECs had reported troubles within 30 days were loops that CLECs had certified as working during joint acceptance testing. App. B, Tab 565, at 5634 (old numbering); DTE Eval. App. F (Response to DTE RR-323).</p> <p>This is consistent with the evidence described above that the majority of CLEC trouble reports resulted in no trouble found.</p>	<p>“VZ-MA reviewed xDSL loop troubles reported in the month of July, which amounted to almost 600 loop troubles. . . . VZ-MA states that the vast majority (one third of the total troubles reported) were closed to cable conditions despite the fact that over 75 percent of these loops had recent acceptance testing (with the serial number provided) by the CLEC. VZ-MA argues its analysis supports its conclusion that CLECs are accepting loops that they should not be accepting. It appears from our record that no CLEC is disputing VZ-MA’s explanation of the disparity in numbers of trouble tickets issued (i.e., CLECs accept loops and file trouble tickets immediately thereafter). DTE Eval at 312.</p>	<p>Verizon demonstrated in its application that CLECs are submitting trouble reports on many loops that they certified as working during acceptance testing. Verizon repeated the results of its study in the state proceeding that, of 594 CLEC trouble reports in July, more than 75 percent had recent acceptance testing and corresponding serial numbers provided by the CLEC. Application at 25-26; L/R ¶ 104 &amp; Att. L.</p> <p>In response to comments relying predominately on measures such as trouble reports within 30 days, Verizon again pointed out that the vast majority of trouble reports submitted by CLECs in July were closed with No Trouble Found. Verizon also submitted results of a study by Drs. Gertner and Bamberger that confirmed that, once trouble reports for which CLECs provided a serial number are excluded, the percentage of CLEC orders with trouble tickets within 30 days is lower than Verizon’s retail trouble report rate. Reply Comments at 12-13; L/R Reply ¶ 66 &amp; Att. F; G/B Reply ¶ 25.</p> <p>Verizon also filed with its application all the evidence that was included in the state record.</p>
<p>∃ Verizon demonstrated that CLECs appeared to be intentionally accepting loops they knew would not</p>	<p>∃ “Our record supports VZ-MA’s contention that CLECs sometimes accept loops they know will not</p>	<p>Verizon demonstrated in its Application that, in July, more than 80 percent of CLEC repair requests</p>

<p>support the service they wish to provide and shortly thereafter submitting trouble tickets on these loops. App. B, Tab 520, at 2553-2555 (old numbering).</p> <p>∃ In response to DTE RR-323, VZ studied 594 DSL loop troubles reported in the month of July and determined that the vast majority of those with trouble found were cable issues that, given they were reported so close to the turn-up date, and considering the extremely high percentage of cable troubles, there is very little likelihood that these types of problems had occurred subsequent to installation. See DTE Eval. at App. F (Response to RR-323).</p> <p>∃ CLECs admitted to engaging in this practice:</p> <p>Covad: "The process that Covad experiences, if Bell Atlantic provisions the loop and through Harris testing we discover it has, for example, load coil on it, the way that is dealt with is through a trouble ticket. We have to call and open up a trouble ticket. Bell Atlantic has a commitment to clear a trouble ticket within 24 hours." App. B, Tab 233, at 3247 (new numbering).</p>	<p>support the service they intend to offer. . . . the Department does not accord a significant amount of weight to this metric. We will not draw negative performance implications on VZ-MA's part derived from the conduct of some CLECs in playing an angle in the system." DTE Eval. at 313-314.</p> <p>"In questioning VZ-MA's xDSL performance, it appears to the Department that the DOJ is relying upon CLEC allegations that (a) are being made by DTE 99-271 participants for the first time in their FCC comments, or (b) are being made by CLECs that never sought to participate in DTE 99-271. We base our recommendation upon information contained in our record." DTE Reply at 84.</p> <p>∃ "[T]he Department does not agree that a 'trouble' on a loop equals a non-functioning loop, as Covad contends. VZ-MA stated that some CLECs will accept a loop and then open a trouble ticket to have VZ-MA perform work on that loop to meet certain technical specifications (e.g., faster transmission speed)." DTE Reply Eval. at 81.</p> <p>∃ "During a technical session last year, several CLECs acknowledged accepting loops that, absent additional work by VZ-MA, could not support xDSL service (i.e., loops with load coils, excessive bridged tap) and then, immediately thereafter, filing trouble tickets to obtain loop conditioning. . . ." DTE Eval. at 313-314.</p> <p>"While we cannot say – with any assurance – why a CLEC would do so, we can say that ascribing the</p>	<p>for DSL loops were traced to problems that should have been revealed during acceptance testing or were closed with no trouble found. Verizon stated that the fact that CLECs are submitting trouble reports within short periods after loops are installed – and after they provide a serial number accepting the loops as working – suggests that CLECs re-accepting loops that are not capable of supporting the loops they wish to provide and then submitting 'repair' orders in an effort to force Verizon to rebuild or replace the loop. Application at 25-26; L/R ¶¶ 103-105.</p> <p>Verizon repeated these facts in its Reply Comments. Reply Comments at 12-13; L/R Reply ¶ 66 &amp; Att. F.</p> <p>Verizon also filed with its application all the evidence that was included in the state record.</p>
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<p>Covad reiterated this claim in July 2000: “The only way we can get a redispach on a bad loop is by accepting a bad loop or a loop that we didn’t even get from the RCCC and opening a trouble ticket with the RCMC.” App. B, Tab 462, at Szafraniec/Katzman Decl. ¶ 65.</p> <p>Vitts: Our approach has been the same manner with the trouble report. They have two or three days’ turnaround time repairing those, depending on how many load coils they have and how much work is involved.” App. B, Tab 233, at 3248 (new numbering).</p>	<p>consequence of a CLEC business decision to a purported VZ-MA failure appears unwarranted.” DTE Reply at 81.</p> <p>“The Department cannot and will not guess why Covad would accept a loop that does not support the xDSL service it intends to offer over that loop. VZ-MA has posited that CLECs want to “lock in” a loop, a claim we note no CLEC has challenged.” DTE Reply at 81.</p> <p>“[S]tatements made by Covad’s experts before us contradict the position it has taken before the FCC (i.e., it does not accept loops that would not support the level of xDSL service it intends to offer).” DTE Reply at 83.</p>	
<p><b>3. Verizon demonstrated that CLECs submit fewer repeat trouble reports than Verizon.</b></p>		
<p>Under the measurements used in the C2C performance reports, Verizon demonstrated that, in second quarter 2000, CLECs submitted fewer repeat trouble reports than Verizon did for its retail customers. App. B, Tab 423, at Checklist Aff. ¶¶ 144-146; App. B, Tab 446; App. B, Tab 537.</p>	<p>“[W]e note that CLECs submit significantly fewer repeat trouble reports on xDSL loops than does VZ-MA for its retail customers. This metric demonstrates that once CLECs receive loops that are appropriate for xDSL service, they experience fewer problems than VZ-MA.” DTE Eval. at 321.</p>	<p>Verizon demonstrated in its Application that, from May through July 2000, the repeat trouble report for CLECs was lower than for retail. G/C Att. E.</p> <p>In response to criticisms of Verizon’s loop quality performance and attempts to rely predominately on measures such as trouble reports within 30 days, Verizon again stated these facts. Reply Comments at 13; G/C Reply Att. D.</p> <p>Verizon also filed with its application all the evidence that was included in the state record.</p>
<p style="text-align: center;"><b>C. Maintenance and Repair</b></p>		
<p><b>1. Verizon demonstrated that it is providing maintenance in a nondiscriminatory manner</b></p>		

<p>Verizon submitted C2C performance data that its missed repair appointment rate in the second quarter 2000 was low. App. B, Tab 446; App. B, Tab 537.</p> <p>Verizon also submitted carrier-specific missed appointment data for April through June 2000 that demonstrates that missed appointment rates for individual CLECs were low. App. B, Tab 550 (Response to DTE RR 324) (proprietary).</p>	<p>"[W]e find that VZ-MA provides maintenance and repair for CLEC xDSL loops in substantially the same time and manner as it does for retail customers." DTE Eval. at 322</p>	<p>Verizon demonstrated in its Application that the missed repair appointment rate was low and declining, and that, in July 2000, the missed repair appointment rate for CLECs was comparable to the retail rate. G/C Att. E.</p> <p>In response to comments relying predominately on measures such as trouble reports within 30 days, Verizon again noted in its Reply Comments that the missed repair appointment rate for CLECs in July was comparable to the retail rate. Verizon further noted that, in August and September, the rate for CLECs was better than for retail notwithstanding the impact of the August work stoppage. Reply Comments at 14; G/C Reply Att. D.</p> <p>Verizon also filed with its application all the evidence that was included in the state record.</p>
<p>Verizon demonstrated that, in second quarter 2000, CLECs submitted fewer repeat trouble reports than Verizon did for its retail customers. App. B, Tab 423, at Checklist Aff. ¶¶ 144-146; App. B, Tab 537; App. B, Tab 446.</p>	<p>"[W]e note that CLECs submit significantly fewer repeat trouble reports on xDSL loops than does VZ-MA for its retail customers. This metric demonstrates that once CLECs receive loops that are appropriate for xDSL service, they experience fewer problems than VZ-MA." DTE Eval. at 321.</p>	<p>Verizon demonstrated in its Application that the repeat trouble report for CLECs was lower than for Verizon from May through July. G/C Att. E.</p> <p>In response to criticisms of Verizon's maintenance and repair performance and attempts to rely predominately on repair interval measures, Verizon again noted in its reply comments that CLECs submit fewer repeat trouble reports for DSL than Verizon's retail customers. Reply Comments at 13; G/C Reply Att. D.</p> <p>Verizon also filed with its application all the evidence that was included in the state record.</p>
<p><b>2. Verizon demonstrated that it provides maintenance and repair within non-discriminatory intervals.</b></p>		
<p>Verizon demonstrated that Verizon's wholesale and retail maintenance and repair intervals are comparable once numerous adjustments are made to account for the ways in which CLEC behavior affects these intervals. For example, Verizon demonstrated that choosing a Monday appointment</p>	<p>"[W]e find that VZ-MA provides maintenance and repair for CLEC xDSL loops in substantially the same time and manner as it does for retail customers." DTE Eval. at 322</p>	<p>Verizon filed with its application all the evidence that was included in the state record.</p>

<p>when a Saturday appointment is offered adds 46-48 hours to the interval. DTE Eval. Att. F (Verizon Response to DTE RR 323), at 2. Verizon also demonstrated that a main cause of long repairs for CLECs appeared to be the CLEC's acceptance during the provisioning process of loops that cannot support the CLEC's xDSL service. Id. at 3. Verizon explained that the only solution in these instances is to reassign the loop to a new facility, or, if no spare facilities are available, build new facilities, and that these activities are unlike traditional repair work and require considerable time and effort. Id.</p>		
<p>First, Verizon demonstrated that repair intervals are affected by the fact that CLECs intentionally accept loops that do not support the DSL services they want to provide, which forces Verizon to reconstruct or reprovision the loop. App. B, Tab 520, at 2553-2555 (old numbering); DTE Eval. App. F (Verizon Response to RR 323); App. B, Tab 494, at Checklist Aff. ¶ 139.</p> <p>Verizon noted that individual CLECs admitted to engaging in this practice. App. B, Tab 520, at 2486-2487 (old numbering); App. B, Tab 494, at Checklist Aff. ¶ 139.</p>	<p>"We also find that several of VZ-MA's metrics are affected by the propensity of some CLECs to accept loops they concede are unable to support xDSL service, absent additional work by VZ-MA technicians. . . . Because CLECs are accepting loops that do not support xDSL service, VZ-MA's efforts are much greater than with its retail xDSL service (e.g., involving VZ-MA's construction and engineering crews) and much more time-consuming." DTE Eval. at 320.</p> <p>"Covad fails to make the obvious connection between CLECs accepting loops they know or should know will not support the level of service they intend to offer and what effect that will have on the number of trouble tickets for newly provisioned loops." DTE Reply at 81-82.</p>	<p>As noted above, Verizon demonstrated in its application that, in July, more than 80 percent of CLEC repair requests for DSL loops were traced to problems that should have been revealed during acceptance testing or were closed with no trouble found. Verizon explained that this indicated that CLECs were accepting loops that are not capable of supporting the services they wish to provide and then submitting repair orders. Application at 25-26; L/R ¶¶ 102-105 &amp; Atts. L, M.</p> <p>In response to complaints about Verizon's maintenance and repair performance and attempts to rely predominately on repair interval measures, Verizon noted in its Reply Comments that if repair intervals are adjusted to exclude only those requests that are attributable to situations where Verizon is forced to condition and reprovision a loop that was never capable of supporting DSL service, the reported difference between mean time to repair for wholesale and retail is reduced to only nine hours for July and three hours for September. As noted below, Verizon also demonstrated that when the fact that CLECs frequently decline weekend appointments is taken into account, the difference between Verizon's wholesale and retail performance is reduced to only five hours in July</p>

		<p>and is eliminated in September. Reply Comments at 12, 14-15; L/R Reply ¶¶ 71-72 &amp; Att. F; G/B Reply ¶ 25.</p> <p>Verizon also filed with its application all the evidence that was included in the state record.</p>
<p><u>Second</u>, Verizon demonstrated that repair intervals are affected by CLECs failure to accept weekend appointments. This occurs because Verizon does not stop the clock over the weekend so postponing the repair appointment extends the interval. App. B, Tab 494, at Checklist Aff. ¶¶ 135-138; DTE Eval. App. F (Response to RR-323); App. B, Tab 565, at 5633 (old numbering).</p>	<p>“We also find that several of VZ-MA’s metrics are affected by . . . the preference for Monday and not weekend repair appointments.” DTE Eval. at 320.</p> <p>“Other than Rhythms indicating in its FCC comments that it accepts Saturday repair appointments and appointments outside of the standard 9:00 a.m. to 5:00 p.m. period, no CLEC has contested VZ-MA’s assertion that CLEC behavior adversely affects several of its maintenance and repair metrics (e.g., declining Saturday appointments, inability to isolate accurately a source of trouble on a loop, accepting loops that require additional work by VZ-MA technicians).” DTE Reply at 86-87.</p> <p>“While VZ-MA did perform a study of the effect of CLEC-rejected weekend appointments for non-xDSL loops, it undertook the same study for just xDSL loops. . . . It is clear to the Department that this VZ-MA study was of just xDSL, not POTS, loops. Later in its comments, the DOJ questions the accuracy of VZ-MA’s study because ‘CLECs deny that they avoid weekend repair appointments. Rhythms is the only CLEC that has affirmed, albeit in its FCC comments, that it does indeed accept offered weekend repair appointments from VZ-MA. Therefore, we respectfully disagree with the DOJ’s use (in footnote 43 of the DOJ Evaluation) of FCC comments filed by Covad and NAS. . . to question the validity of the VZ-MA study.” DTE Reply at 89-90.</p>	<p>Verizon demonstrated in its application that CLECs frequently choose not to schedule repair appointments at the earliest available date, even though they are offered the same repair intervals (including weekend appointments) as Verizon’s retail customers. Application at 20; L/R ¶¶ 73-75; G/C ¶¶ 103-105.</p> <p>In response to criticisms of Verizon’s maintenance and repair performance and attempts to rely predominately on repair interval measures, Verizon demonstrated that when the propensity of CLECs to decline weekend repair appointments is taken into account, the reported difference for wholesale and retail orders is reduced by an additional four hours. When combined with the effect described above of CLECs accepting loops that do not support xDSL service, this reduces the difference between Verizon’s wholesale and retail performance to only five hours in July and eliminates the difference in September. Reply Comments at 15; L/R Reply ¶ 73.</p> <p>Verizon also filed with its application all the evidence that was included in the state record.</p>
<p><u>Third</u>, Verizon demonstrated that repair intervals are</p>	<p>“VZ-MA’s evidence of having to rely on CLECs to</p>	<p>Verizon demonstrated in its application that CLECs</p>

<p>affected by CLECs' failure to isolate troubles on loops, which causes multiple dispatches and ties up repair personnel. App. B, Tab 445 (Response to Information Request DTE-5-11); App. B, Tab 423, at Checklist Aff. ¶¶ 251-253; App. B, Tab 494, at Checklist Aff. ¶ 150.</p>	<p>direct VZ-MA technicians to the exact location of the trouble is uncontroverted in our record." DTE Eval. at 319.</p> <p>"[W]e find that VZ-MA's maintenance and repair performance is hindered by the CLECs' inability to identify the source of the trouble." DTE Eval. at 320.</p> <p>"A CLEC's inability to locate the source of a problem not only delays repairs for that CLEC but other CLECs, too." DTE Eval. at 320.</p>	<p>frequently submit maintenance and repair requests that do not identify the trouble they are experiencing with the loop, even though they are responsible for doing so. Verizon demonstrated that, from May through July 2000, 59 percent of the maintenance requests for unbundled loops were not properly isolated, and the loop was found to be okay or the problem was traced to customer premises equipment. Verizon further stated that the problem is compounded by the fact that Verizon technicians, in an effort to accommodate CLEC requests, frequently assign expedited repair appointments for CLECs that are shorter than Verizon will assign for itself. Application at 20, L/R ¶¶ 76-78.</p> <p>Verizon also filed with its application all the evidence that was included in the state record.</p>
<p><u>Fourth</u>, Verizon demonstrated that the vast majority of trouble tickets that CLECs have submitted on DSL loops were for loops where no trouble was found to exist, which needlessly ties up Verizon technicians in unnecessary appointments. App. B, Tab 445 (Response to Information Request DTE-5-11); App. B, Tab 520, at 4280 (new numbering); App. B, Tab 494, at Checklist Aff. ¶¶ 143-145; DTE Eval. App. F (VZ August 22, 2000 Response to DTE RR 323).</p> <p>Verizon provided carrier-specific data that, of all the troubles submitted by Covad between April 15 and June 15, 2000, nearly 56 percent were closed with No Trouble Found, and that in the majority of cases once Verizon told Covad this it did not issue a further trouble report. App. B, Tab 494, at Checklist Aff. ¶ 144.</p>	<p>"VZ-MA's data indicate that its . . . 'NTF' [No Trouble Found] rates are significantly higher for CLEC than VZ-MA retail customers." DTE Eval at 319-320.</p> <p>"Covad also argues that simply because VZ-MA has not found a problem from some of Covad's repeat trouble tickets does not mean trouble does not exist because it is possible that the repeat trouble ticket is still open. We disagree with this argument. It is clear to us that when VZ-MA states that 29 percent of Covad's repeat trouble tickets '<u>never</u> resulted in a found [VZ-MA] trouble,' it means VZ-MA has closed almost a third of Covad's repeat trouble tickets as NTF." DTE Eval. at 321.</p>	<p>As noted above, Verizon demonstrated in its application and Reply Comments that the vast majority of trouble reports are closed with No Trouble Found. Application at 25-26; L/R ¶¶ 102-105 &amp; Atts. L, M; Reply Comments at 12-14; L/R Reply ¶¶ 71-72 &amp; Att. F; G/B Reply ¶ 25.</p> <p>Verizon also filed with its application all the evidence that was included in the state record.</p>
<p><u>Finally</u>, Verizon demonstrated that its repair intervals are affected by "no access" situations, which also needlessly ties up Verizon technicians</p>	<p>"It is only logical that an unnecessary dispatch means that the VZ-MA technician is unable to attend to a bona fide request trouble that much</p>	<p>Verizon demonstrated in its application that no access situations have a disproportionate impact on DSL loops given that there are often three</p>

<p>who could be completing repairs where they could get access. App. B, Tab 423, at Checklist Aff. ¶ 202; App. B, Tab 520, at 2486, 2498-99, 2522-24 (old numbering).</p>	<p>sooner.” DTE Eval. at 320.</p>	<p>companies involved – Verizon, the CLEC, and the ISP. From April through July, Verizon was unable to gain access to the customer’s premises to complete a repair in connection with nearly 59 percent of CLECs’ complex loop repair requests compared to only 3.4 percent of the maintenance requests from Verizon’s own retail customers. Application at 25; L/R ¶ 106 &amp; Att. N.</p> <p>In response to criticisms of Verizon’s maintenance and repair performance and attempts to rely predominately on repair interval measures, Verizon again pointed to these facts. Reply Comments at 15.</p> <p>Verizon also filed with its application all the evidence that was included in the state record.</p>
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Verizon is Providing Non-Discriminatory Access to Loop Qualification Information

Verizon is providing CLECs in Massachusetts with the same non-discriminatory access to the same loop qualification information as Verizon provides in New York and the FCC found met the Act's requirements. These access arrangements fully satisfy the non-discrimination requirements of the Act's competitive checklist and of the FCC's *UNE Remand Order*.

A. The Act Requires Incumbent Carriers to Provide Non-Discriminatory Access to Loop Qualification Information.

According to the Commission, sections 251 and 271 of the 1996 Act require incumbent carriers to provide CLECs with non-discriminatory access to loop qualification information. In Verizon's New York long distance application, for example, the Commission interpreted the Act's non-discrimination provision as requiring that Verizon provide to CLECs the same access to loop qualification information that is available to Verizon's retail representatives. As the Commission explained, a Bell Operating Company must "provide requesting carriers nondiscriminatory access to the systems and processes for identifying loop characteristics that it provides to its retail representatives." *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*, 15 FCC Rcd 3953 ¶ 141 (1999). The Commission then found that Verizon met this non-discrimination requirement because Verizon's "mechanized and manual processes enable requesting carriers to access loop qualification information in substantially the same time and manner as [Verizon's] retail operations." *Id.* ¶ 143.

The Commission's finding in New York is equally applicable in Massachusetts where Verizon provides the same access to loop qualification information. Moreover, Verizon implemented its Separate Data Affiliate in Massachusetts as of November 13, 2000. Verizon's Separate Data Affiliate is now using the same mechanized loop qualification database available to non-affiliated CLECs and is accessing that database using the same pre-ordering interfaces available to non-affiliated CLECs.

In the wake of Verizon's New York long distance application, the Commission elaborated further on its interpretation of the Act's non-discrimination requirements for access to loop qualification information. In its *UNE Remand* decision, the Commission held that incumbent carriers are required to provide CLECs with access to more than just the loop qualification information that the incumbent's own retail personnel *do* obtain access to. In addition, the Commission held that incumbent carriers are required to provide CLECs with access to any loop qualification information that Verizon's own retail personnel *could* obtain access to. As the Commission explained, "the incumbent LEC must provide access to the underlying loop qualification information contained in its engineering records, plant records and other back office systems" and "[t]o the extent such information is not normally provided to the incumbent LEC's retail personnel, but can be obtained by contacting incumbent back office personnel, it must be provided to requesting carriers within the same time frame that any incumbent personnel are able to obtain such information." See *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, 15 FCC Rcd 3696 ¶¶ 428, 431 (1999) ("*UNE Remand Order*").

The Commission also found that the Act does not require incumbent carriers to create an electronic form access to such additional loop qualification information where such access is not provided to other incumbent carrier personnel:

We disagree, however, with Covad's unqualified request that the Commission require incumbent LECs to catalogue, inventory, and make available to competitors loop qualification information through automated OSS even when it has no such information available to itself. If an incumbent LEC has not compiled such information for itself, we do not require the incumbent to conduct a plant inventory and construct a database on behalf of requesting carriers.

*UNE Remand Order* ¶ 429. Instead, as the Commission explained, "an incumbent LEC that has manual access to this sort of information for itself, or any affiliate, must also provide access to it to a requesting competitor on a non-discriminatory basis." *UNE Remand Order* ¶ 429. Where an incumbent carrier's retail and other personnel could obtain access to additional loop qualification information by contacting the incumbent carrier's back office personnel, the incumbent can satisfy its non-discrimination obligations by allowing CLECs to contact the incumbent's back office personnel to obtain the same information in the same time frame.<sup>1</sup>

Of course, the Commission's interpretation of the Act's non-discrimination requirements in the *UNE Remand* decision must be read in a manner that is consistent with the Act's requirements for "non-discriminatory access to unbundled network elements" generally. 47 U.S.C. § 251(c)(3). The Commission has interpreted this non-discrimination requirement to mean that the access provided to competitors must be "equal-in-quality to that which the incumbent LEC provides to itself." *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, 11 FCC Rcd

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<sup>1</sup> As explained *infra* at Section D, Verizon advised the Commission how it intended to comply with the Commission's *UNE Remand Order* in a petition for

15499, ¶ 312 (1996). As the Eighth Circuit explained, “subsection 251(c)(3) does not mandate that requesting carriers receive superior quality access to network elements on demand.” *See Iowa Util. Bd. v. FCC*, 120 F.3d 753, 812 (8th Cir. 1997).

Finally, the Commission elaboration on the Act’s non-discrimination requirements for access to loop qualification information is consistent with the Commission’s interpretation of the Act’s non-discrimination requirements in analogous contexts. For example, in its second long distance application for Louisiana, BellSouth indicated that it provided access to its poles, ducts, conduit and right of way information through its back office personnel. Upon receiving a request for such information, BellSouth personnel would locate the pertinent records, redact the proprietary information contained in those records and provide the redacted information to the competing carrier within five business days. AT&T argued that the five-business day waiting period for competitors is discriminatory because BellSouth back office personnel have instant access to engineering information. AT&T Comments on BellSouth’s Section 271 Application for Louisiana, CC Dkt. No. 98-121, at 69-70 (filed Aug. 4, 1998). The Commission properly rejected AT&T’s argument, finding that “this disparity in time is reasonable . . . given that BellSouth needs to redact its records to protect proprietary information.” *Application of BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc., for Provision of In-Region, InterLATA Services in Louisiana*, 13 FCC Rcd 20599, ¶ 180 (1998).

The situation is no different with respect to loop qualification information. Verizon’s loop qualification information is contained in the same types of facility records

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clarification filed last February.

and inventory systems as its pole, duct, conduit and right of way information. But the Commission's decisions make clear that Verizon is not required to provide CLECs with direct access to rummage through files of paper records and inventory systems themselves. Instead, Verizon is required to provide CLECs with the same ability to obtain information from Verizon's back office personnel as it would be available to Verizon's own retail or other personnel if they chose to request such information. And Verizon is required to provide CLECs with information from Verizon's back office personnel in the same time frame that it could be obtained by Verizon's retail or other personnel, subject to reasonable differences to permit back office personnel to redact proprietary information before the loop qualification information is provided to the CLECs.

**B. Verizon Fully Satisfies the Commission's Requirements to Provide Non-Discriminatory Access to Loop Qualification Information.**

Verizon provides three separate methods of access to Verizon's loop qualification information. These methods of access more than satisfy the Commission's requirements for non-discriminatory access to loop qualification information.

First, Verizon provides CLECs in Massachusetts with the same real time mechanized access to loop qualification information through its loop qualification database that Verizon provides in New York. The Commission found that these access arrangements in New York satisfied the Act's non-discrimination requirements. By July of this year, some 93 percent of central offices where CLECs have collocation already were included in the loop qualification database, and some individual CLECs are now