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June 7, 2001

VIA HAND DELIVERY

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Ms. Magalie Roman Salas  
Secretary  
Office of the Secretary  
Federal Communications Commission  
Room TW-B-204  
445 Twelfth Street, S.W.  
Washington, D.C. 20544

JUN 7 2001

REDACTED -  
For Public Inspection

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: Application by Verizon New York Inc., Verizon Long Distance, Verizon Enterprise Solutions, Verizon Global Networks Inc., and Verizon Select Services Inc., for Authorization To Provide In-Region, InterLATA Services in Connecticut, CC Docket No. 01-100

Dear Ms. Salas:

This is the cover letter for Reply Comments for the Application by Verizon New York Inc., Verizon Long Distance, Verizon Enterprise Solutions, Verizon Global Networks Inc., and Verizon Select Services Inc., for Authorization To Provide In-Region, InterLATA Services in Connecticut ("Reply Comments").

These Reply Comments contain confidential information. We are filing confidential and redacted versions of the Reply Comments.

1. The Reply Comments consist of (a) a stand-alone document entitled Reply Comments by Verizon New York ("the Reply Brief"), and (b) the Reply Appendix containing supporting material.

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2. Specifically, we are herewith submitting for filing:
  - a. One original of only the portions of the Reply Comments that contain confidential information;
  - b. One original of the redacted Reply Comments;
  - c. Four copies of the redacted Reply Comments; and
  - d. One CD-ROM containing the redacted Reply Comments.

3. We are also tendering to you certain copies of this letter and of portions of the Reply Comments for date-stamping purposes. Please date-stamp and return these materials.

4. Under separate cover, we are submitting copies (redacted as appropriate) of the Reply Comments to Ms. Janice Myles, Policy and Program Planning Division, Common Carrier Bureau, Federal Communications Commission, Room 5-C-327, 455 12th Street, S.W., Washington, D.C. 20544. We are also submitting copies (redacted as appropriate) to the Department of Justice, to the Connecticut Department of Public Utility Control, and to ITS (the Commission's copy contractor).

Thank you for your assistance in this matter. If you have any questions, please call me at 202-326-7930 or Steven McPherson at 703-974-2808.

Very truly yours,

A handwritten signature in black ink, appearing to read "Evan T. Leo". The signature is fluid and cursive, with a large initial "E" and "L".

Evan T. Leo

Encs.

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

RECEIVED

JUN 7 2001

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
)  
Application by Verizon New York Inc., )  
Verizon Long Distance, Verizon )  
Enterprise Solutions, Verizon Global )  
Networks Inc., and Verizon Select )  
Services Inc., for Authorization To )  
Provide In-Region, InterLATA Services )  
in Connecticut )

CC Docket No. 01-100

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June 7, 2001

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## INTRODUCTION AND SUMMARY

This Application presents the easiest case — by far — for long distance approval to date. The undisputed facts here show that local markets in New York are open, and that Verizon has opened its markets in Connecticut to the exact same degree as in New York. Verizon's Application to provide long distance service in Connecticut should be granted expeditiously.

Verizon provides service to only 60,000 access lines in Connecticut. Competitors in New York, in contrast, already serve *more than 3 million lines*, and in the first quarter of this year added an average of 80,000 new lines each month. This means that, in each of the first three months of this year, Verizon provisioned to CLECs in New York one and a third times more lines than it serves in all of Connecticut. These numbers alone are dispositive proof that Verizon can handle — without even the slightest strain — any level of demand that might arise in Connecticut.

This is all the more true because Verizon's systems and processes in Connecticut are the New York systems and processes that the Commission already has found satisfy the Act in all respects. Moreover, Verizon's wholesale rates in Connecticut are the same checklist-compliant rates in place in New York. And the Performance Assurance Plan in Connecticut mirrors the plan in New York, and places proportionately the same penalty amounts at risk.

These facts alone make this Application an open-and-shut case for approval. In addition, the other parties' comments — including those of the Connecticut DPUC and the Department of Justice ("DOJ") — overwhelmingly support granting this Application. The DPUC concludes that Verizon "demonstrates full compliance with the Act's 14-point competitive checklist." The DOJ reaches the exact same conclusion, and for the first

time expresses no qualifications about the Commission granting an application.

Likewise, AT&T — also for the first time in a section 271 proceeding — has stated that it “does not oppose” this Application, while WorldCom has apparently reached the same conclusion in deciding (also for the first time in a 271 proceeding) not to file comments of any sort. In addition, the vast majority of the other comments do not take serious issue with the fundamental premise that, for section 271 purposes, Connecticut is identical to New York. Rather, they primarily raise legal issues, which either have already been rejected by the Commission, or are without merit.

Finally, only one commenter — Covad — takes issue with Verizon’s performance. But as usual, Covad’s claims are based on unsupported assertions and misrepresented facts. For example, Covad continues to complain about the rate of installation-related troubles on DSL loops. But Covad bases this claim on Verizon’s reported performance under flawed business rules that CLECs already have agreed to replace with new rules. Covad’s other claims are equally misguided, and do not in any event come close to supporting denial of this Application.

Indeed, granting this Application will have enormous benefits for consumers. For example, according to the most recent independent study of the effects of Verizon’s long distance entry in New York, consumers in that state are saving up to *\$700 million per year* as a result of Verizon’s entry — up to \$300 million in long distance savings, and up to \$400 million in local savings. Consumers in Connecticut are entitled to receive these same undisputed benefits that consumers in New York have received as a result of Verizon’s entry.

**I. VERIZON SATISFIES THE REQUIREMENTS OF TRACK A.**

Verizon demonstrated in its Application that competitors in Verizon's limited service area in Connecticut are providing service predominantly over their own facilities to both business and residential subscribers. See Application at 4-9. No party challenges any part of this showing.

Sprint nonetheless states (at 2) that it is "concerned about the evidentiary basis of the DPUC's conclusion that Verizon NY met the requirements under Track A," and without citing any legal authority claims that a "more thorough investigation was warranted." But the Act does not require the DPUC to conduct *any* investigation to evaluate Verizon's compliance with the requirements of Track A. The Act requires only that this Commission "consult with the State commission . . . in order to verify the compliance of the Bell operating company with the requirements of subsection [271](c)." 47 U.S.C. § 271(d)(2)(B). And with respect to whether the Bell company meets the requirements of section 271(c)(1)(A) — that is, whether the Bell company may proceed under Track A — the primary purpose of this consultation is simply "to verify that the BOC has one or more state approved interconnection agreements with a facilities-based competitor." New York Order ¶ 20.<sup>1</sup>

Consistent with Commission precedent, therefore, the DPUC verified that it "approved an interconnection agreement between Verizon and Network Plus," and that Verizon "met the requirements under Track A." DPUC Comments at 3; Decision at 1, Application of New York Telephone Company Pursuant to Section 271 of the

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<sup>1</sup> Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act To Provide In-Region, InterLATA Service in the State of New York, Memorandum Opinion and Order, 15 FCC Rcd 3953 (1999).

Telecommunications Reform Act of 1996, Docket No. 97-01-23 (DPUC Apr. 11, 2001) (App. B, Tab 1G) (“DPUC 271 Decision”) (same). Nothing more was either necessary or required.

In any event, “[t]he Commission has held that, although it will consider carefully state determinations of fact that are supported by a detailed and extensive record, it is the Commission’s role to determine whether the factual record supports the conclusion that particular requirements of section 271 have been met.” New York Order ¶ 20. The undisputed record here — with or without relying on the DPUC’s determination — is that Verizon has approved interconnection agreements with competing carriers that are actively providing service over their own facilities to both business and residential subscribers. And even Sprint does not dispute the showing made here. Track A clearly has been satisfied.

## **II. VERIZON SATISFIES THE REQUIREMENTS OF THE COMPETITIVE CHECKLIST.**

Verizon demonstrated in its Application that it provides each and every checklist item in Connecticut in the same manner, at the same rates, and using the same systems and processes as in New York, and which the Commission has already found meet all the requirements of the Act. See Application at 9-14; New York Order ¶ 82. No party challenges these facts.

The DPUC concurs in all respects with Verizon’s showing. It explains that, because Verizon “has a relatively small Connecticut operation,” it “conducts its Connecticut operations out of New York using the same systems and processes and providing wholesale products and services at New York rates.” DPUC Comments at 4, 12. The DPUC also confirms that, just as Verizon’s wholesale products and rates in

Connecticut are the same as they are in New York today, they will continue to be the same in the future. The DPUC indeed requires that Verizon “implement in Connecticut any UNE rate changes that the Company makes in New York”; that Verizon’s collocation tariffs “continue to mirror” the tariffs in New York; that Verizon “provide all UNE combinations that it currently offers in New York”; and that Verizon’s resale tariff “mirrors that of New York.” Id. at 12-13. Verizon therefore has a “commitment in Connecticut” to “adopt[] any changes made in its New York operations . . . in its Connecticut operations.” Id. at 13.<sup>2</sup>

For all these reasons, the DPUC concludes that “Verizon has demonstrated full compliance with the Act’s 14-point competitive checklist.” DPUC Comments at 13. In reaching that conclusion, the DPUC “relied primarily on the comprehensive investigation and expertise of the NYPSC for its determination that Verizon was in compliance with Section 271 of the Act.” Id. at 4. In doing so, the DPUC noted that the “NYPSC’s comprehensive investigation was conducted in a manner that is consistent with the CTDPU and FCC standards,” and that this Commission granted Verizon’s application in New York. Id. at 4-5.<sup>3</sup>

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<sup>2</sup> Of course, Verizon will, as the DPUC “fully expects,” “uphold its commitment” to ensure that any changes in its New York operations be “directly reflected in its Connecticut operations.” DPUC Comments at 13. For example, Verizon will modify its wholesale and resale rates in Connecticut “contemporaneously” with the modification of these rates in New York, and it will, to the same extent as is required in New York, “provide ‘new’ UNE-P combinations to CLECs, even if those combinations are not in service as of the date of a CLEC’s order.” AT&T at 2.

<sup>3</sup> Because the DPUC determined that Verizon could proceed under Track A, and Verizon filed its Application under Track A, Sprint’s claim (at 2) that the DPUC did not subject Verizon’s SGAT in Connecticut “to a comprehensive investigation” is largely beside the point. Once the DPUC determined that Verizon’s interconnection agreement with Network Plus entitled it to proceed under Track A, the DPUC “proceeded with a review of Verizon’s compliance with the Act’s 14-point competitive checklist in order to

The Department of Justice also agrees that Verizon satisfies the checklist in all respects. In fact, the DOJ found that this Application is “unique” due to the incontrovertible evidence that “Verizon’s Connecticut service area is extremely limited”; that “Verizon serves Connecticut CLECs by means of the same New York-based operations that were reviewed” and approved by the Commission; and that “Verizon and the [DPUC] have agreed to implement in Connecticut the outcomes of many continuing and future local competition proceedings pertaining to Verizon’s operations in New York.” DOJ Eval. at 1-2.

This Application is accordingly the first of its kind — the first to receive the unqualified support of the relevant state commission and the Department of Justice and not to be opposed by both AT&T and WorldCom. Under these circumstances, the Commission should accord the recommendations of the state commission and the DOJ an even greater level of deference and expeditiously grant this Application. This is all the more true here because Verizon satisfies the checklist in Connecticut using systems and processes that the Commission itself has already found satisfy the Act in all respects.

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determine whether Verizon had sufficiently opened its market to competition in Connecticut.” DPUC Comments at 4. The DPUC therefore conducted two separate inquiries regarding Verizon’s checklist compliance — the first involving Verizon’s SGAT (which concluded on September 6, 2000, see id. at 3 & Att. A) and the second involving Verizon’s interconnection agreements (which concluded on April 11, 2001, see id. at 3 & Att. C). Given that Verizon is proceeding under Track A, it is this second investigation that is most relevant here. See 47 U.S.C. § 271(c)(2)(A)(i)(I). Significantly, Sprint does not claim that this investigation was in any way deficient (nor does any other party). Indeed, as described above, the DPUC’s review was fully consistent with the Commission’s own framework. See, e.g., Joint Application by SBC Communications Inc., et al., for Provision of In-Region, InterLATA Services in Kansas and Oklahoma, Memorandum Opinion and Order ¶¶ 34-38, CC Docket No. 00-217 (rel. Jan. 22, 2001) (“Kansas/Oklahoma Order”). In any event, as explained above, it is ultimately the Commission’s responsibility to determine whether Verizon satisfies the Act, and the record here — as Sprint does not dispute — conclusively demonstrates that Verizon satisfies the checklist in Connecticut in all respects.

Moreover, as the overwhelming support of this Application makes clear, these systems and processes are just as checklist compliant today as when the Commission first approved them.<sup>4</sup> For example, although CLECs have submitted very few orders for hot-cuts in Connecticut, see Lacouture/Ruesterholz Reply Decl. ¶ 9, Verizon is completing very large volumes of hot cuts in New York, and consistently completing more than 98 percent of them on time, see id. ¶ 10. CLECs have submitted no orders for high-capacity loops in Connecticut, and a relatively small number in New York. See id. ¶ 21. Nonetheless, from December 2000 through February 2001, Verizon met nearly 91 percent of its appointments for high-capacity loops in New York where facilities were available, more than 95 percent in March, and more than 99 percent in April. See id. ¶ 27. And it completed those orders within intervals that are comparable to Verizon's own retail services. See id. ¶¶ 24-26.

Verizon is providing commercial volumes of DSL loops to CLECs in both Connecticut and New York, see id. ¶ 36, and its performance in both states has been and continues to be strong. For example, during January and February, Verizon missed only one (of 24) installation appointment in Connecticut, and only five (of 49) appointments in March and April. See id. ¶ 44. In New York, Verizon met 94 and 95 percent of its installation appointment in January and February, and improved to more than 97 and 99 percent in March and April. See id. ¶ 45. And throughout these months, the rate of installation troubles reported by CLECs in New York has been low, and is comparable to

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<sup>4</sup> The Lacouture/Ruesterholz Reply Declaration summarizes Verizon's most recent performance in both Connecticut and New York for those checklist items about which CLECs specifically complain here, or for which Verizon's reported results do not accurately reflect Verizon's performance and therefore warrant further explanation.

retail when calculated under the new business rules that have been agreed to by the Carrier Working Group. See id. ¶ 56.

Verizon's line-sharing performance has been equally strong. Although line-sharing volumes in Connecticut have been extremely small, see id. ¶¶ 67, 72, in New York, Verizon is completing line-sharing orders for CLECs on time, and just as quickly as orders for its own advanced services affiliate, see id. ¶¶ 73-77. Moreover, as the reported results show, other aspects of Verizon's line-sharing performance in New York have likewise been nondiscriminatory in all respects. See id. ¶¶ 69-71, 79-83.

Verizon's performance also is excellent with respect to other checklist items. For example, from December through April, Verizon completed 100 percent of trunk orders for CLECs in Connecticut on time and had no installation troubles reported within 30 days on these trunks. See id. ¶ 89. In New York, where volumes are enormous, Verizon met more than 97 percent of the due dates for CLEC interconnection trunk orders from December through February, more than 98 percent in March and April, and the rate of installation troubles throughout these months was less than one-hundredth of one percent. See id. ¶ 90. Verizon also is providing unbundled switching and unbundled transport elements to CLECs on time, and its performance in New York during March and April continues to improve. See id. ¶¶ 98-103.

Despite all this, Covad — and only Covad — takes issue with Verizon's checklist performance. Covad complains about the subset of unbundled loops used to provide DSL services in New York. As shown below, however, none of Covad's claims has merit, and none is based on Verizon's performance in Connecticut.

Loop Qualification. Verizon demonstrated in its Application that CLECs in Connecticut may obtain access to loop qualification information in the same way they obtain such information in New York and Massachusetts — by electronically accessing Verizon’s loop qualification database, by placing a manual loop qualification request, by submitting an engineering query, or by electronically accessing the loop make-up information in Verizon’s Loop Facility Assignment Control System (“LFACS”). See Application at 28-29. Based on identical evidence, the Commission found that “Verizon demonstrates that it offers nondiscriminatory access to OSS pre-ordering functions associated with determining whether a loop is capable of supporting xDSL advanced technologies.” Massachusetts Order ¶ 60.<sup>5</sup>

Covad nonetheless rehashes (at 4-6) its claim that Verizon’s current method for providing access to LFACS does not enable it to obtain “electronic real-time access” to this system. But the Commission specifically found that, “contrary to Covad’s assertions . . . Verizon’s offering for LFACS loop make-up information complies with the checklist.” Massachusetts Order ¶ 61. And although Covad now says (at 1 n.4) that the Commission “should be ashamed of itself” for this decision, it offers no new evidence to suggest that the Commission’s decision was somehow wrong.

Moreover, Covad concedes (at 6) that it “is not using” Verizon’s current method for obtaining access to LFACS, after arguing that Verizon should have to spend millions to provide it with access. And Covad admits that the reason it is not using LFACS is because this database — as Verizon has said all along — does not contain information for

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<sup>5</sup> Application of Verizon New England Inc., et al., For Authorization to Provide In-Region, InterLATA Services in Massachusetts, Memorandum Opinion and Order, CC Docket No. 01-9 (rel. Apr. 16, 2001).

the majority of loops in Verizon's network. See Lacouture/Ruesterholz Reply Decl.

¶ 40.<sup>6</sup> Despite this, Covad accuses Verizon — without evidence of any kind — of incorrectly processing Covad's database requests. As the Commission correctly found, however, the interim loop qualification process is "largely automated," provides "useful, detailed information," where available, and "competitors are generally receiving this information within two hours" of their query. Massachusetts Order ¶ 61; see also id. ¶ 64. And, of course, Verizon is in the process of developing through the change management process a permanent change to its systems for access to LFACS that "will provide the functionality and features Covad seeks." Id. ¶ 64.

DSL Loop Provisioning Timeliness. Verizon demonstrated in its Application that it is providing relatively large volumes of DSL-capable loops in Connecticut, and very large volumes in New York, and that in both states its performance in providing access to these loops has been and continues to be strong. Moreover, the volume of DSL-capable loops that Verizon provides to competitors continues to increase. For example, in March and April 2001 — the most recent months for which data are available — Verizon provided 49 DSL-capable loops to CLECs in Connecticut (more than five times the

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<sup>6</sup> Covad also claims (at 6-7) that Verizon is not flowing-through "the vast majority of Covad's orders" in Connecticut. But Covad has placed very few orders that were confirmed in Connecticut — only 12 in December, 11 in January, and five in February (see Covad at 7) — and, as the Commission has recognized, "where performance data is based on a low number of observations, small variations in performance may produce wide swings in the reported performance data" rendering such performance data "not as reliable an indicator of checklist compliance as performance based on larger numbers of observations." Kansas/Oklahoma Order ¶ 36. The Commission also has recognized that Verizon is "dependent, in part, on the performance of competing carriers to achieve high [flow-through] rates." New York Order ¶ 166. And the evidence here shows that many carriers other than Covad have been able to achieve high flow-through rates. See McLean/Wierzbicki Decl. ¶ 45; Lacouture/Ruesterholz Reply Decl. ¶ 42; see also New York Order ¶ 166 (finding similar evidence persuasive); Massachusetts Order ¶ 78 (same).

amount it provided in the preceding three months combined), and 2,700 additional DSL-capable loops in New York. See Lacouture/Ruesterholz Reply Decl. ¶ 32.

No commenter — including Covad — challenges Verizon’s performance in providing DSL-capable loops to competitors in Connecticut on a timely basis.<sup>7</sup> Moreover, only Covad challenges Verizon’s provisioning timeliness in New York, relying principally on measurements that the Commission has refused to endorse in the past. Covad does not, for example, challenge Verizon’s performance under the missed appointment measurement. Nor could it. Verizon’s performance under this measurement, in both Connecticut and New York, has been timely and nondiscriminatory. See Application at 30-31; Lacouture/Ruesterholz Decl. ¶¶ 155-161; Gertner/Bamberger Decl. ¶ 18; Lacouture/Ruesterholz Reply Decl. ¶¶ 44-45.

Covad does complain about Verizon’s performance in New York under the average completion interval measurement, claiming (at 9) that Verizon “takes between nine and half and ten days to finish loop delivery for CLECs” in New York. But Covad bases this statement on reported results that count against Verizon orders that Verizon could not initially provision due to a lack of facilities, but where Verizon takes additional time to try to make facilities available. When these facilities misses are excluded, Verizon’s average completion interval for CLEC DSL loops in December, January, and February, was 6.62 days, 7.93 days, and 7.39 days, respectively. See Application at 31;

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<sup>7</sup> Covad is simply wrong in its claim (at 8) that “Verizon does not bother to report its retail performance for comparison to its wholesale performance . . . on any metric except one — PR 6-01.” Verizon’s Application included its retail performance for every single performance measurement for which a retail analogue exists in the Carrier-to-Carrier Guidelines. See Canny/Abesamis Decl. Att. C.

Lacouture/Ruesterholz Decl. ¶ 161; Gertner/Bamberger Decl. ¶ 18.<sup>8</sup> Moreover, Verizon's performance in New York improved further still in March and April, reducing the average completion intervals to 6.69 days and 5.58 days, respectively, *without excluding the facility misses*. See Lacouture/Ruesterholz Reply Decl. ¶ 47.

Covad next claims (at 8-9) that, in February 2001, "Verizon completed only 50% of CLEC DSL loop installations within 6 days" in New York. This is simply untrue.<sup>9</sup> In February, Verizon completed 91.32 percent of CLEC DSL orders within six days in New York (and 100 percent in Connecticut). See Lacouture/Ruesterholz Decl. ¶¶ 163-164; Canny/Abesamis Decl. Att. C; see also Lacouture/Ruesterholz Reply Decl. ¶ 50. And in March and April, Verizon's performance in New York improved further still — completing 92.33 percent and 96.36 percent of CLEC loop orders within six days, respectively. See Lacouture/Ruesterholz Reply Decl. ¶ 50.

Finally, Covad claims (at 10) that Verizon's performance in New York is discriminatory under the new measurement that tracks the percentage of orders in hold status greater than 30 days. But the Commission has never relied on this measurement before. See Massachusetts Order ¶ 136 ("we continue to rely primarily upon . . . missed installation appointments and average completion intervals"). Moreover, this new measurement is significantly flawed as initially defined and reported, because it includes orders that could not be provisioned due to a lack of facilities. For example, 71 percent

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<sup>8</sup> The December results relied on here were calculated using the new business rules, and the results for all three months were adjusted to exclude facilities misses. See Application at 31 n.41; Lacouture/Ruesterholz Decl. ¶ 161; Gertner/Bamberger Decl. ¶¶ 17-18.

<sup>9</sup> For support of this claim, Covad cites (at 9 n.20) "Verizon Canny/Abesamis Decl. at 41," but neither page 41 nor paragraph 41 of this declaration — nor any other page, paragraph, or attachment of that or any other declaration — contains such information (or anything remotely close).

of the 174 open orders reported in January and February for New York could not be provisioned because Verizon lacked facilities, but because CLECs did not cancel these orders within 30 days they were reported as in a hold status. See Lacouture/Ruesterholz Decl. ¶ 166. Likewise, in March and April, 73.5 percent of the 106 open orders reported in New York could not be provisioned because Verizon lacked facilities. See Lacouture/Ruesterholz Reply Decl. ¶ 53. There are no such retail orders because Verizon does not accept an order unless it has facilities to provision the order. See id. ¶ 52.

DSL Loop Provisioning Quality. Verizon demonstrated in its Application that it provides unbundled DSL-capable loops to competing carriers that are equal in quality to the loops used for Verizon's retail DSL services. For example, Verizon demonstrated that when the I-code rate was calculated under the new business rules agreed to by the CLECs in the Carrier Working Group, the results demonstrate parity. See Application at 32-33; see Lacouture/Ruesterholz Decl. ¶ 171; Lacouture/Ruesterholz Reply Decl. ¶¶ 54-55.

Covad nonetheless claims (at 9) that "CLECs suffer twice as many loop outages . . . as do Verizon's retail customers."<sup>10</sup> But Covad is relying here on the I-code rate as reported under flawed business rules that CLECs already have agreed to modify. See

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<sup>10</sup> Covad also complains (at 9) that its own I-code rate was higher than the rate for CLECs as a whole. But evidence of the variability between CLECs merely confirms that it is possible for CLECs to achieve very low I-code rates and that it is primarily CLEC business practices, not Verizon's conduct, that account for the larger I-code rates for some individual carriers. Indeed, Covad provides no evidence that Verizon is favoring other CLECs over Covad, so there is no basis to consider one carrier's individual I-code rates as representative of Verizon's overall performance. In any event, there is substantial variation in Covad's own I-code rate, which although higher than the retail analogue under the new business rules in December and January, was lower than the new retail analogue from February through April. See Lacouture/Ruesterholz Reply Decl. ¶ 58.

Lacouture/Ruesterholz Reply Decl. ¶ 57. As Covad does not dispute, when Verizon's performance is calculated under the business rules recently agreed to by the Carrier Working Group, the results are at parity. See Application at 32-33; Lacouture/Ruesterholz Decl. ¶ 171; Massachusetts Order ¶ 146 (relying on adjusted performance data for this measurement demonstrating parity); see also Lacouture/Ruesterholz Reply Decl. ¶ 55.<sup>11</sup> And Verizon's performance in the most recent two months, again calculated under the new business rules, continues to show that Verizon provides DSL loops to competitors that are equal in quality to the loops it provides to itself. See Lacouture/Ruesterholz Reply Decl. ¶ 56. Moreover, the results are even better than parity when the fact that some CLECs do not properly perform acceptance testing (therefore resulting in unnecessary I-codes) is taken into account. See Application at 33-34; Massachusetts Order ¶ 145 (noting that adjustments to I-code performance data are justified to account for CLEC failure properly to perform acceptance testing).

Line Sharing. Verizon demonstrated in its Application that it is providing line sharing in Connecticut through the same systems and processes that it uses in Massachusetts, and which the Commission found meet the requirements of the Act. See

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<sup>11</sup> Covad also claims (at 8) that the 1,379 observations that Verizon reported for the retail analogue under PR 6-01 in Connecticut seems too high, and asks "[w]hat is Verizon reporting?" The retail analogue during the relevant time period was all POTS lines with order activity, and included not only orders for new lines, but also a variety of other transactions associated with the provisioning of POTS lines during the relevant time frame. See Lacouture/Ruesterholz Reply Decl. ¶ 59. As Verizon has previously explained, the Carrier Working Group already has agreed to replace the retail analogue with the subset of retail POTS lines requiring a dispatch. See id.

Application at 36-43; Massachusetts Order ¶ 165.<sup>12</sup> Verizon also proved that it implemented line sharing in both the Greenwich and Byram central offices, and that Verizon has already begun provisioning line-sharing orders for CLECs in Connecticut. See Application at 38; Lacouture/Ruesterholz Decl. ¶ 207. And because line-sharing volumes in Connecticut are still relatively small, Verizon demonstrated that it was provisioning large volumes of line-sharing orders in New York — where the line-sharing “OSS and provisioning processes are identical” to those in Connecticut, Kansas/Oklahoma Order ¶ 215; see also Massachusetts Order ¶ 163, and that its performance in that state has been strong.<sup>13</sup>

Covad alleges — again without explanation or support — that it was unable to activate line-sharing capability in the Greenwich central office until May 4, 2001. See Covad at 4. But the facts show that Verizon responded in a timely manner to Covad’s application to augment its collocation arrangement in the Greenwich office, and likewise

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<sup>12</sup> Sprint complains (at 2) that the DPUC failed to investigate whether Verizon complied with the Commission’s line-sharing requirements in Connecticut. This is not true. The DPUC did specifically look at this issue, concluding that, because Verizon provided line sharing using the New York systems and processes, “Verizon’s commitment to revise its Connecticut tariffs . . . based on NYPSC decisions and any further record in this proceeding on a going-forward basis [was] sufficient.” DPUC 271 Decision at 12. In any event, as noted above, it is ultimately up to the Commission to determine whether Verizon complies with the checklist, and the record here — as Sprint does not dispute with respect to this or any other checklist item — conclusively demonstrates that Verizon is providing line sharing in compliance with Act.

<sup>13</sup> Covad claims — without any legal or factual support — that there is not enough line-sharing performance data in Greenwich for the Commission to determine whether Verizon provides nondiscriminatory access to line sharing in Connecticut. But as the Commission repeatedly has held, it is perfectly appropriate under the circumstances here for Verizon to rely on its line-sharing performance data in New York. See, e.g., Kansas/Oklahoma Order ¶ 215; Massachusetts Order ¶ 163. And as Covad does not dispute, Verizon is provisioning significant volumes of line-sharing orders in New York and its performance there is strong. See Lacouture/Ruesterholz Reply Decl. ¶¶ 67, 73-77, 78-83.

has responded in a timely manner to Covad's line-sharing orders there. Verizon received Covad's request to augment its collocation arrangement on January 10, 2001, and completed the collocation work within the 76 business day interval. See Lacouture/Ruesterholz Reply Decl. ¶ 85. Moreover, shortly after Verizon handed over the Greenwich collocation arrangement, Verizon and Covad conducted a joint inspection of that office, and Covad certified that all of the collocation work was complete and accurate. See id. And, since that time, Covad has submitted a very small number of line-sharing orders in Greenwich, all but one of which Verizon completed on time, and that one order was returned to Covad for lack of facilities. See id.

Collocation Power Charges. Verizon demonstrated in its Application that the manner in which it charges CLECs for collocation power in Connecticut is the same as in Massachusetts, where the Commission found that Verizon's rate structure was "just, reasonable, and nondiscriminatory." Massachusetts Order ¶ 199; see Application at 21 n.32. Covad complains (at 7) that Verizon has since filed a revision to its federal tariff in which it "proposed a tripling — or even quadrupling — of the prices it charges for collocation power." Covad has the law and the facts wrong.

First, for purposes of this Application, Verizon is not required to show that rates in its federal collocation tariff comply with the checklist. Instead, it is required to show only that the Connecticut tariff is "just, reasonable, and nondiscriminatory." See, e.g., Massachusetts Order ¶ 211 ("checklist compliance is not intended to encompass provision of tariffed interstate services simply because these services use some of the same physical facilities as a checklist item"); New York Order ¶ 340. Moreover, the proposed revisions to Verizon's federal tariff — which Verizon filed on April 11, 2001

— are now under review in another proceeding before this Commission.<sup>14</sup> That proceeding, not this one, is the appropriate forum in which to consider Verizon's federal collocation rates.

Second, Covad misrepresents the nature of Verizon's proposed tariff revisions. As Verizon has demonstrated in the proceeding regarding its federal collocation tariff, the proposed revisions decrease collocation power rates in some respects, and increase them in others, with the combined effect resulting in at most a modest increase — and in some cases a decrease — in the actual charges that collocators will pay.<sup>15</sup> For example, Verizon decreased the costs for power by revising its tariff to begin charging collocated carriers for power based on the amount of load they request, rather than the number of fused amps, which decreases the overall collocation power charges. At the same time, Verizon proposed an increase in the per-amp charges based on recent cost studies that more accurately reflect Verizon's actual forward-looking costs of providing such power. These new rates replace rates that were based on old cost studies — conducted in 1993 and 1996 — that grossly underestimate the costs of providing collocation.

Although the proposed new per-amp charges in the federal tariff are higher than the per-amp charges in the Connecticut and New York tariffs, CLECs will continue to be able to purchase from the state tariff after the proposed revisions to the federal tariff take effect. Moreover, the per-amp rates that are in effect in Connecticut are identical to the rates that have been in effect in New York since 1998, and which this Commission

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<sup>14</sup> See The Bell Atlantic Telephone Companies Revisions for Tariff F.C.C. Nos. 1 and 11; The Verizon Telephone Companies, Tariff F.C.C. Nos. 1 and 11, Order, Transmittal Nos. 1373, 1374, 23, & 24 (FCC rel. Apr. 25, 2001).

<sup>15</sup> See Reply of Verizon to Petitions To Suspend and Investigate, Verizon Telephone Companies Tariff FCC Nos. 1 and 11, Transmittal Nos. 1373, 1374 (FCC filed Apr. 24, 2001).

approved in the New York Order. See New York Order ¶¶ 78-80 (approving Verizon’s collocation pricing). In addition, these rates are in most instances even lower than the per-amp rates in Massachusetts,<sup>16</sup> which the Commission also upheld as “just, reasonable, and nondiscriminatory . . . in compliance with checklist item 1.” Massachusetts Order ¶ 199.

DSL Resale. Verizon demonstrated in its Application that its advanced services affiliate — Verizon Advanced Data Inc (“VADI”) — offers for resale at a wholesale discount those DSL services that are subject to a discount under the Commission’s rules. No party disputes this showing.

Although ASCENT complains (at ii) that VADI “will allow the resale of its xDSL-based services only to consumers who take voice service from Verizon,” it is completely wrong that the Act or the Commission’s rules somehow require more. First, as a factual matter, VADI offers DSL services in Connecticut and New York by purchasing the same line-sharing service from Verizon as other DSL providers do. See Lacouture/Ruesterholz Reply Decl. ¶ 108. Verizon’s line-sharing service is available only where Verizon is the voice provider, consistent with the Commission’s rules. See

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<sup>16</sup> The rates in Connecticut and New York are \$19.56 per load amp on each feed when more than 60 amps are ordered, and \$19.64 when fewer than 60 amps are ordered. See New York Telephone Company, Tariff, State of Connecticut No. 11 – Telephone § 10.5.1(B)(3); Verizon New York Inc., Tariff, PSC NY No. 8 – Communications § 35.15.10. In Massachusetts, there are different rates for different zones — metro, urban, suburban, and rural — as follows: \$19.36, \$17.78, \$20.11, and \$30.94 per load amp on each feed when more than 60 amps are ordered, and \$20.24, \$18.66, \$20.99, and \$31.82 when fewer than 60 amps are ordered. See Verizon New England Inc., Tariff, DTE MA No. 17 § 5.2.

Line Sharing Order ¶ 72.<sup>17</sup> This means that line sharing is not available where a carrier other than Verizon is providing the voice service on the line, such as where a reseller provides the voice service. See Lacouture/Ruesterholz Reply Decl. ¶ 108. As a result, because VADI exclusively uses line sharing to serve its customers, it does not provide DSL service to customers who receive their voice service from other carriers. See id.

Second, as a legal matter, the Act requires VADI to resell only those “services” that it currently “provides.” 47 U.S.C. § 251(c)(4)(A). And because the only DSL service that VADI currently provides — whether at retail, wholesale, or otherwise — is provided using line sharing (which is available only where Verizon provides the voice service), VADI does not provide DSL service where another carrier is the voice provider.<sup>18</sup> As a result, there is no service to resell. Moreover, the Bell Atlantic/GTE Merger Conditions affirmatively limit VADI to obtaining from Verizon only those services that also are available to other CLECs, which means that VADI may not

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<sup>17</sup> Deployment of Wireline Services Offering Advanced Telecommunications Capability, Third Report and Order in CC Docket No. 98-147, Fourth Report and Order in CC Docket No. 96-98, 14 FCC Rcd 20912 (1999).

<sup>18</sup> ASCENT is simply wrong to characterize (at 3-5) the fact that VADI does not provide DSL service on a line where a carrier other than Verizon provides the voice service as a “restriction” on the resale of its services. The simple fact is that VADI itself does not serve customers other than Verizon voice customers, and obviously cannot be said to be placing a restriction on the resale of services to subscribers that it does not even serve.

Likewise, ASCENT is plainly incorrect when it argues (at 13-14) that the result here would be different if Verizon, rather than VADI, were the entity providing retail DSL services and that Verizon is accordingly “utilizing an affiliate to avoid its Section 251(c) obligations.” Pursuant to the D.C. Circuit’s decision in Association of Communications Entrps. (ASCENT) v. FCC, 235 F.3d 662 (D.C. Cir. 2001), VADI and Verizon are both treated as “incumbent local exchange carriers” for purposes of section 251(c)(4), and therefore have identical resale obligations. Just as VADI is not required to permit the resale of DSL services that it does not currently provide, Verizon would not be required to either.

consistent with its legal obligations provide DSL through line sharing to customers other than Verizon voice customers.<sup>19</sup> ASCENT's claim therefore boils down to an argument that VADI should be required to provide a service that it does not (and could not consistent with the merger conditions) currently provide.

While ASCENT's claim, therefore, does not raise an issue under the checklist,<sup>20</sup> Verizon nonetheless has had preliminary discussions with CLECs as part of the DSL Collaborative proceedings in New York on this subject. See Lacouture/Ruesterholz Reply Decl. ¶ 108. Assuming that CLECs express interest in using this product and will work cooperatively with Verizon in the DSL Collaborative to address the operational issues associated with offering a new product that would allow DSL to be provided over resold voice lines, Verizon will develop this new product offering for use in New York and Connecticut as well as in its other states. See id.

### **III. APPROVING VERIZON'S APPLICATION IS IN THE PUBLIC INTEREST.**

In its Application, Verizon demonstrated that local markets in Connecticut are open to the exact same degree as in New York, where competition is thriving. See Application at 71-72. Verizon also demonstrated that its entry into the long distance market in Connecticut, just like its entry in New York, would further promote local and

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<sup>19</sup> See Application of GTE Corp., Transferor, and Bell Atlantic Corp., Transferee, For Consent to Transfer Control, Memorandum Opinion and Order, 15 FCC Rcd 14032, App. D ¶ 4(f) (2000) (Verizon must "permit unaffiliated telecommunications carriers to order such facilities and services under the same rates, terms, and conditions, and to utilize the same interfaces, processes, and procedures as are made available to the separate Advanced Services affiliate").

<sup>20</sup> See generally Texas Order ¶ 228 ("For the section 271 process to work, potential BOC applicants must have a reasonable degree of certainty about what they need to do to bring themselves in compliance with the statutory requirements, and they therefore need to be able to rely on our rules for appropriate guidance."); see also id. ¶¶ 23-24.

long distance competition there. See id. at 74-75. In addition, Verizon demonstrated that mechanisms are in place to ensure that local markets will remain open in Connecticut after Verizon's entry, including a Performance Assurance Plan that mirrors the New York plan and places proportionately the same penalty amounts at risk. See id. at 75-79.

Although a few parties quibble with some aspects of this showing, the evidence that Verizon's entry is in the public interest continues to mount. For example, the same independent consumer group that eight months ago concluded that Verizon's entry in New York would save consumers up to \$120 million per year, has released an updated version of its study based on more recent data. It now concludes that the 1.7 million residential customers that switched to Verizon long distance service in New York are saving up to *\$284 million per year*. See Telecommunications Research & Action Ctr., 15 Months After 271 Relief: A Study of Telephone Competition in New York at 1 (Apr. 25, 2001). And it finds that the 2.7 million residential customers that switched their local service away from Verizon are saving up to *\$416 million per year*. Id.

In any event, the few comments that CLECs raise with respect to Verizon's public interest showing are completely without merit.

Performance Assurance Plan. Verizon demonstrated in its Application that it is subject to a self-executing Performance Assurance Plan in Connecticut that mirrors the plan it has adopted, and the Commission has approved, in New York. See New York Order ¶ 429; see also Massachusetts Order ¶ 240. Verizon's Connecticut Plan places more than \$1.49 million in annual bill credits at risk, an amount that is proportionately equivalent — based on the relative number of lines — to the amount at risk in New York.

See Canny/Abesamis Decl. ¶ 120; New York Order ¶ 435; see also Massachusetts Order ¶ 241 & n.769.

Cablevision concedes all of this (at 4), but nonetheless argues (at 3-4) that the amount at risk in Connecticut is simply “too small” in absolute terms. But Cablevision provides nothing more than mere assertion to support its view. In any event, the Commission repeatedly has held that, in evaluating whether the amount at risk in a performance assurance plan is adequate, it will look not to the absolute amount at risk, but rather to how that amount compares in relative terms to the size of the state for which approval is sought. See, e.g., Texas Order ¶ 424 & n.1235 (approving performance assurance plan with total liability “comparable to the [liability] . . . deemed adequate for [Verizon] in New York”)<sup>21</sup>; Kansas/Oklahoma Order ¶ 274 (approving performance assurance plans with total liability “[a]s a percentage of the applicant’s in-state net return” equivalent to “amount at stake . . . in Texas and New York”). And here, of course, the Commission already found that the amount at risk in New York — on which the amount at risk in Connecticut is proportionately based — is sufficient to provide “a meaningful incentive for [Verizon] to maintain high a level of performance.” New York Order ¶ 435; see also Massachusetts Order ¶ 242.

Cablevision also takes issue with the structure of the Connecticut Plan, and argues (at 3) that the Commission should require the adoption of “CLEC-specific, incident-based remedies for performance failures.” But Cablevision again offers no basis for why the structure of the Connecticut Plan — which is identical to the structure of the New York

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<sup>21</sup> Application by SBC Communications Inc., et al., Pursuant to Section 271 of the Telecommunications Act of 1996 To Provide In-Region, InterLATA Services In Texas, Memorandum Opinion and Order, 15 FCC Rcd 18354 (2000).

Plan — is now inadequate. Indeed, the Connecticut Plan, like the New York Plan, “require[s] [Verizon] to achieve service quality that exceeds the Checklist requirements.”<sup>22</sup> Moreover, while the plans that Verizon has proposed in other states have different structures that also satisfy the Act, the Commission has found that “[p]lans may vary in their strengths and weaknesses, and there is no one way to demonstrate assurance.” Massachusetts Order ¶ 240 (citing Michigan Order ¶ 393).<sup>23</sup> And of course, the Performance Assurance Plan is not the only mechanism to ensure Verizon’s continued compliance with the Act: Verizon has a strong business interest in providing superior wholesale service; competing carriers can enforce their legal and contractual rights in the appropriate regulatory and judicial forums; and the Commission itself retains the ability to enforce section 271 with penalties up to and including possible revocation of long distance authority under section 271(d)(6)(A)(i).

Interconnection Agreement Negotiation. Cablevision next complains (at 2) that the process of renewing its interconnection agreement with Verizon in Connecticut was “long and costly.” Although Verizon did in good faith defend its legal rights throughout the course of these negotiations, it obviously is entitled to do so.<sup>24</sup> And as Cablevision

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<sup>22</sup> Evaluation of the New York Public Service Commission at 3, 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 (FCC filed Oct. 19, 1999).

<sup>23</sup> Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as amended, To Provide In-Region, InterLATA Services In Michigan, Memorandum Opinion and Order, 12 FCC Rcd 20543 (1997).

<sup>24</sup> Moreover, Verizon and Cablevision in fact resolved on their own all but two issues, both of which were purely legal in nature — reciprocal compensation for Internet traffic and the rates that Cablevision could charge Verizon for various services (e.g., for transport facilities used to terminate Internet-bound traffic at Cablevision’s facilities). Although Cablevision boasts (at 2) that the arbitrator found for Cablevision “on every issue” (emphasis omitted), the arbitrator’s decision on reciprocal compensation was

does not dispute, Verizon did not at any time during these negotiations engage in unfair dealing or discrimination, nor violate any rule or regulation. Cablevision's allegations accordingly do not provide a basis to find that granting Verizon's Application would not be in the public interest. See New York Order ¶ 444 & n.1365 (“[W]e have previously stated that we will not withhold section 271 authorization on the basis of isolated instances of allegedly unfair dealing or discrimination under the Act,” including allegations that Verizon “has engaged in unfair and dilatory tactics in interconnection negotiations”).

Finally, the Commission must reject Cablevision's request (at 2) to “place the burden of proof on Verizon to show that renewing an interconnection agreement with a CLEC is not reasonable.”<sup>25</sup> This clearly is not the procedure contemplated by the Act for

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directly contrary to this Commission's subsequent order on that subject. See Lacouture/Ruesterholz Reply Decl. ¶¶ 91-92; Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Order on Remand and Report and Order, CC Docket 96-98 (rel. Apr. 27, 2001); see also New York Order ¶ 377 (whether a carrier pays reciprocal compensation for Internet traffic is “irrelevant to checklist”).

Following the arbitrator's decision, the DPUC ordered Verizon to modify its SGAT with respect to reciprocal compensation for Internet traffic, and to remove from the SGAT its Geographically Relevant Points of Interconnection Proposal (“GRIPS”). On April 20, 2001, Verizon submitted a revised SGAT to the DPUC that made the requested modifications. See Lacouture/Ruesterholz Reply Decl. Att. 45.

<sup>25</sup> Cablevision's claim (at 2) that Verizon has previously agreed to accept a “similar commitment” is based on an improper reading of the New York Pre-Filing Statement. The Pre-Filing Statement provides, in relevant part, that the “[performance] standards and remedies [incorporated into an interconnection agreement] will continue to be offered by Bell Atlantic-NY in subsequent negotiations with those CLECs upon expiration of the existing agreements and similarly will be negotiated in good faith with other CLECs who request negotiation of such terms and conditions.” Pre-Filing Statement of Bell Atlantic-New York at 2, Petition of New York Telephone Company for Approval of Its Statement of Generally Available Terms and Conditions, Case 97-C-0271 (New York Pub. Serv. Comm'n filed Apr. 6, 1998) (App. C, Tab 403, to Application by Bell Atlantic-New York for Authorization To Provide In-Region, InterLATA Services in New York, CC Docket No. 99-295 (FCC filed Sept. 29, 1999)). This language primarily is intended simply to mirror the requirement in section 252(i) that Verizon make

resolving interconnection disputes. To the contrary, if Cablevision or any other CLEC believes that Verizon is acting unreasonably in an interconnection agreement negotiation, it may petition a state commission to arbitrate such disputes. See 47 U.S.C. § 252(b). There is simply no basis for the Commission to establish an end-run around this statutorily prescribed process. Moreover, to the extent that Cablevision is complaining that arbitration requires some additional time, this is largely irrelevant: Verizon's interconnection agreement with Cablevision in Connecticut remained in force and effect until the new agreement took effect. See Lacouture/Ruesterholz Reply Decl. ¶ 94. The negotiation and arbitration of a new agreement therefore had no effect on Cablevision's ability to compete. See id.

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available to one CLEC the same terms and conditions as it makes available to another CLEC, and to clarify that, upon the expiration of an agreement, Verizon will continue to abide by the terms of the old agreement while a new agreement is negotiated. As described below, this is exactly what happened in Connecticut.

**CONCLUSION**

Verizon's Application to provide interLATA service originating in Connecticut should be granted.

Respectfully submitted,



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