TAB B

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

In the Matter of	)	
	)	
Application by Verizon	)	
for Authorization to Provide In-Region,	)	CC Docket No. 01-138
InterLATA Services in Pennsylvania	)	
	)	

DECLARATION OF KAREN A. KINARD
ON BEHALF OF WORLDCOM, INC.

Based on my personal knowledge and on information learned in the course of my duties, I, Karen A. Kinard, declare as follows:

1. My name is Karen A. Kinard. I am a Senior Staff Member in WorldCom's National Carrier Policy and Planning organization. I am responsible for performance measurement development for WorldCom, and I was a key developer of the Local Competition Users' Group's version 7 Service Quality Measurement document. I have also been WorldCom's lead representative in carrier-to-carrier performance measurement and remedy discussions in Pennsylvania, as well as the Verizon states of New York, New Jersey, and Virginia, and other states including Illinois, Michigan, Ohio, Indiana, Louisiana, North Carolina, Florida, and Arizona, and have testified on performance issues surrounding Verizon in Massachusetts. I have held various positions since joining WorldCom's (then MCI's) Local

Initiatives group in June 1996, including leading a team that provided subject matter expertise during the first round of interconnection agreement negotiations.

2. Before joining WorldCom, I was an Editor for 11 years at Telecommunications Reports ("TR"), covering technology, state regulation, federal and state access charge issues, and jurisdictional cost separations policy. I also held the position of Chief Technology Editor and other top editorial positions, including serving as the principal editor of TR's Communications Business and Finance and Cable-Telco Competition Report newsletters. I initiated TR's Communications Billing Report newsletter before joining Phillips Business International's Communications Today daily electronic newsletter in 1995 as its chief FCC correspondent. From 1976 to 1984, I served in various positions as an aide to the Congressman for the Seventh District of Pennsylvania, including Press Secretary and Legislative Assistant for telecommunications policy and banking.

3. I received my Masters of Science degree in Telecommunications Policy and Management from George Washington University in 1984. I received my Bachelors of Science degree in Communications from West Chester University in 1975. I also hold a paralegal certificate in Corporate Law from Widener University.

I. Purpose and Overview

4. The purpose of my declaration is to review Verizon-Pennsylvania's ("Verizon") performance reporting and the Performance Assurance Plan ("PAP") which depends on those reports. I will discuss KPMG's findings as well as WorldCom's experience, and draw

some comparisons between Pennsylvania and two other Verizon states, New York and Massachusetts. I will also respond to some statements made in the Joint Declaration of Elaine M. Guerard, Julie A. Canny and Marilyn C. DeVito on behalf of Verizon ("Guerard/Canny/DeVito Decl.").

5. Verizon's application for section 271 relief relies on its performance as reported in accordance with measures developed by carriers in a process overseen by the Pennsylvania Public Utility Commission ("PUC"). These performance reports are intended to provide clear indications of whether Verizon is providing service that will enable local competition, and moreover to protect against future declines in service by providing the basis for payments to CLECs where Verizon's performance is not sufficient.

6. The bottom line for a performance assurance plan is whether it provides an adequate deterrent against anticompetitive behavior, and obvious defects in the plan illustrate why this is so. Unfortunately, there is concrete empirical evidence that Pennsylvania's plan does not. As discussed in some detail in the declaration of Sherry Lichtenberg, WorldCom has had well-documented problems with critical Verizon OSS in several key areas, including most notably lost or missing notifiers and billing. Pennsylvania's PAP has been in place for over a year and a half and has been fully operative for a year, but it has not led Verizon to resolve these problems. On the other hand, when Verizon sought section 271 approval, it immediately attempted to address these issues. The lesson is clear – section 271 entry created an incentive for Verizon to address these problems, but Pennsylvania's PAP did not. Unfortunately, if section

271 authority is granted, the only incentive left will be the PAP, and there is every reason to believe that in its present form it will be inadequate to its purpose.

7. There are two basic problems with the PAP. First, it does not adequately capture Verizon's performance, and second, even if it did, it does not provide remedies that would cause Verizon to change its behavior.

II. THE PAP DOES NOT ADEQUATELY CAPTURE VERIZON'S POOR PERFORMANCE

8. The PAP does not accurately report Verizon's performance in two respects: certain metrics are missing or are recorded for "diagnostic" purposes only; and other metrics fails to measure performance in a meaningful manner. Either way, Verizon's inadequate performance is not captured, and no remedies are triggered. WorldCom also continues to question whether the data on the reports is accurate.

9. The PAP's failure to address flow-through problems is a critical failure of the first kind. Verizon's performance on flow-through is critical to competition because manual handling of orders inevitably increases the number of errors. Verizon must measure both total flow through of orders and the success rate of orders that are designed to flow through (achieved flow through). The Pennsylvania metric as it currently stands covers only total flow through and is only diagnostic, so that there are no penalties for low flow through rates. The absence of a metric that determines whether orders that are supposed to flow through actually do flow through (this is called achieved flow through) is a critical failure of the current plan. The Pennsylvania

Carrier to Carrier Guidelines should include reporting on OR-5-03 (Achieved Flow Through), which already exists in New York. In addition, OR-5-01 (Total Flow Through), should be held to a standard of at least 80%.

10. Unlike the Pennsylvania PAP, the New York and Massachusetts PAPs both include Special Provisions on UNE flow-through, to which significant remedies are tied.[1] This is a serious omission in Pennsylvania. Even with New York's flow through benchmarks and significant remedies, it took nearly a year for Verizon to improve its rates. Verizon has no incentive in Pennsylvania to improve flow through to keep pace with CLEC product priorities. The PAP should enable CLECs to obtain self-effectuating remedies for sub-par flow through performance in Pennsylvania in order to ensure that competitive conditions are maintained.

11. Similarly, the Pennsylvania PAP lacks reporting on the receipt of Billing Completion Notifiers ("BCNs"). Pennsylvania has no metric for this critical area that has been the subject of severe problems for Verizon. Verizon clearly can report on this metric now as it provided data for Pennsylvania using the New York metric.[2] In Pennsylvania proceedings, WorldCom urged Verizon to immediately implement the BCN metric that is in the New York PAP (SOP to BCN in 3 days), but Verizon declined to do so. The Carrier Working Group in New York is further refining the BCN metric, which Verizon should implement in Pennsylvania when it is adopted.

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[1] In New York, Verizon has reported flow through performance since the fall of 1999, and has paid significant penalities or discriminatory performance on Achieved Flow Through. In Massachusetts, verizon has resisted reporting under this metric, listing it as Under Development. As discussed elsewhere in this declaration, Verizon's practice of listing metrics as Under Development or of "investigating" data and thus not reporting has been a significant problem in Pennsylvania As well.

[2] Verizon Br. at 63 (citing McLean/Wierzbicki/Webster Decl. ¶¶ 103, 106).

12. Verizon also has refused to implement the New York PAP metric on Missing Notifier Trouble Tickets Cleared in Three Days to assist CLECs when such troubles in receiving both measured and unmeasured notifiers occurs. While Verizon has stated that it is in support of adopting a BCN metric in Pennsylvania it has not begun sytematic reporting under the New York metrics.[3] Verizon has not routinely and consistently been able to return BCN's on time in Pennsylvania, Massachusetts, or most notably, New York, where the severity of the problem of missing notifiers required FCC intervention. An adequate BCN metric, carrying penalties, should be added to the Pennsylvania PAP.

13. Other metrics exist but are plainly inadequate. Thus WorldCom until recently has suffered continual problems receiving timely provisioning completion notices ("PCNs"), yet Verizon always reports its performance at 100%. The reason is that the existing metric measures only the time it takes for the PCN to travel from its Service Order Processor to when Verizon sends it back to WorldCom. That is an irrelevant (and unverifiable) interval. Verizon should instead measure the time it takes from due date to completion – just as it does in New York and Massachusetts. Once the service has been provisioned, it is crucial that WorldCom have notice of this fact. Verizon's metric needs to measure its performance in providing this information.

14. Verizon's metrics also continually reflect that its billing practices are nearly flawless, yet at the same time Verizon has acknowledged chronic failures in its billing practices. This is a result of a failure to adopt relevant metrics (such as those that evaluate the accuracy specifically

[3] April 4 Tr. at 46.

of electronic bills), and a failure of those metrics that do exist. For example, the metric that measures the accuracy of bills reports only those errors that CLECs report to Verizon within thirty days of when they were supposed to receive the bills. But the paper bills that Verizon has been sending are inauditable, and in any event are typically received late and could never be audited quickly enough to report back to Verizon errors in time to be captured in the deficient metric. Thus Verizon's abysmal billing practices are recorded as near perfect, and Verizon has had no incentive to correct them apart from the section 271 process.

15. Nor does the PAP record the timeliness of receipt of electronic bills, since Verizon had declined to identify them as bills "of record." Verizon has been ordered to start capturing this metric with its July 2001 records, but, as I discuss in what follows, Verizon has not in the past been able to make changes to its PAP in a predictable or reliable manner.

16. The Pennsylvania PAP also provides no remedies for trunk blockage. Again, the equivalent metrics carry significant penalties under the Massachusetts and New York PAPs because this is such a fundamental measure of one of the key areas of Verizon's performance. If trunks are blocked, Verizon's customers cannot reach CLEC customers. Since Verizon customers greatly outnumber CLEC customers, this harm most affects the CLEC customers. When trunks block, the Verizon customer cannot make a limited number of calls to CLEC customers, but the CLEC customer cannot receive calls from the majority of telephone users, who are customers of Verizon. Because of the importance of these metrics, every Bell Operating

Company that has received section 271 approval has been subject to performance penalties relating to flow through and trunk blockage.

17. Verizon also needs to add inbound augment trunks to its interval metrics, particularly a missed appointment metric, which is PR-4. Further, NP-7 needs to be modified to ensure that it measures timely response to Verizon-to-CLEC trunks that should cover any mode of seeking a trunk re-sizing, not just e-mail. While Pennsylvania has adopted a measure to address the long wait time for ASRs to be sent by Verizon for such trunks, it does not measure the whole interval. WorldCom is eager to receive these trunks from Verizon because adding new customers can cause blocking on existing inbound trunk groups.[4] WorldCom cannot provision these trunks without Verizon's assistance. Moreover, as the ALJ noted at the technical hearing, Verizon may have an incentive to hold back on these trunks to mitigate its reciprocal compensation obligations. Verizon should also measure on-time performance for these trunks against the negotiated due date and not the date it unilaterally chooses to include in a supplemental order.

18. For all trunk metrics Verizon should move from parity with Feature Group D service (another service they provide us) to benchmarks for projects and non-projects. Non-projects should have the same interval as inbound trunks (18 days) and projects should be no more than 30 days unless the CLEC voluntarily agrees to extend. On-time performance should be measured against the negotiated due date unless the CLEC requests a change in that due date. WorldCom discovered during the Massachusetts section 271 technical hearings that Verizon

[4] See discussion of this issue in March 14 Tr. 94-102.

measures on time against the due dates in its last supplement of the order, and sends supplemental orders on its own volition to push back the due date. This practice would make it almost inconceivable that Verizon would ever consider that it missed an appointment, even one well past the due date negotiated with the CLEC.

19. The Pennsylvania PAP also should include reporting on PO-9 (Timeliness of Trouble Ticket Resolution). WorldCom has had serious problems with missing notifiers in Pennsylvania. WorldCom has also had problems with Verizon closing trouble tickets on such notifiers. The longer it takes Verizon to find out what is happening with missing notifiers, the longer CLECs are at a loss in terms of being able to service their customers. WorldCom has proposed a modification to the metric that exists in New York to ensure that the ticket is not closed without the CLEC getting the missing notifier, and knowing where the order is in terms of final completion. The PAP should contain a similar metric.

20. In addition, the Pennsylvania PAP should include from the New York plan PO-6 (Software Validation), and PO-7 (Software Trouble Resolution and Timeliness). These metrics should be subject to penalties to ensure that Verizon does not use OSS changes to shut down what might otherwise appear to be irreversibly open market conditions. The Software Validation metric protects against Verizon implementing a software upgrade while CLEC test decks are still failing. It also must adopt the Software Error Correction metric to ensure that errors that stop CLEC pre-order and ordering activity are corrected promptly, particularly when there is no work-around available to the CLEC so its ability to add new customers is stopped in its tracks.

Verizon also should implement the standards that now exist of 73 days for business rule changes as well as the 66 days for technical documentation interval in the current metric. The timeliness of documentation and delay days should be measured in the same manner as New York.

21. Verizon's only serious response to all of these metrics problems is to agree to adopt New York metrics sometime after the conclusion of a collaborative process that is just underway, a process that may not conclude until next year. Verizon should not be allowed to rely on promises of such future corrections in making a claim that it is currently subject to a working PAP that will deter anticompetitive behavior. WorldCom agrees that many of the problems discussed above would indeed be corrected if the New York PAP was adopted. But there is no reason for Verizon not to have implemented these changes already – indeed, when it suits its purposes Verizon already reports on its Pennsylvania performance based on New York metrics. It simply has declined to do so for any of the problem areas addressed above.

22. Reliance on future changes to the plan is especially inappropriate because Verizon has a terrible record in metrics change management, and there is no reason to believe that the adoption of New York metrics will come quickly or smoothly. KPMG was unsatisfied with several aspects of Verizon's metrics change control procedure. In exception 27, the final version of which was issued on December 21, 2000, and which was never closed, KPMG detailed a number of examples supporting its conclusions that "changes to metrics have not been consistently developed, evaluated and implemented in accordance with either the internally documents process or Bell Atlantic interview statements." In its final report, KPMG found that

while Verizon had a paper process for implementation of metrics change proposals, it did not consistently adhere to this process. See KPMG Report PMR-4-1-3. In particular, approved changes to metrics were not always implemented, and the timing of the changes that were implemented was neither clear nor consistent. Id. Verizon implemented a new paper process on September 1, 2000, but KPMG was unable to verify that Verizon was adhering to this new process. Id. Verizon now claims to have improved its internal procedures regarding change control, relying on this new paper process. Guerard/Canny/DeVito Decl. ¶ 139. But KPMG's concerns were not with the sufficiency of the paper process, but with Verizon's adherence to that process. Verizon also claims that "KPMG is in the process of reviewing the [new] plan," id, but in the meantime there is no evidence that Verizon is adhering and will continue to adhere to its new process any better than it did the old. This provides no assurance to CLECs.

23. Although Verizon points to its new paper process to respond to one of KPMG's concerns, it does not answer two additional and extremely serious issues which KPMG testing found not satisfied. First, Verizon does not answer the problem of its lack of systematic notice of changes to metrics, in advance or after the fact, to both the PUC and CLECs. In its final report KPMG concluded that Verizon still had no standard system for notifying CLECs and the PUC about changes in its performance metrics. See KPMG Final report PMR-4-1-7. This is a critical problem. Without an accurate notice of changes to performance reports, CLECs will be unable to replicate Verizon's performance reports. Moreover, KPMG also found that Verizon's systems and procedures for tracking metric changes was insufficient – both because documentation did

not clearly indicate how information could be accessed or obtained, and because Verizon itself was not able consistently to provide the correct month of implementation for changes. See KPMG Final Report PMR-4-1-8. Put together, the lack of notice of changes to metrics, and the inability to track these changes after the fact will make it impossible for auditors trying to verify the reports, especially months later, to track Verizon's performance to determine whether it is reporting appropriately and accurately.

24. Verizon's arbitrary treatment of metrics changes shows up very obviously in several respects in its performance reports. As it has in other states, Verizon has not reported results at all under a number of metrics for extended periods of time, listing them as "under development" or "UD." Repeatedly, Verizon has promised to begin reporting on all metrics by particular months, and repeatedly, and without warning CLECs, it has failed to do so. Only when this section 271 application was imminent did Verizon finally begin to offer more complete reports, but even now Verizon has not agreed to supply the performance figures it previously withheld and retroactively make any payments due. Of course, if Verizon reports no results, the quality of its service is unknown, and the reports cannot be relied on to prove section 271 compliance. Moreover, if Verizon fails to report results, it also escapes payments that it might otherwise be liable for under the PAP. Unfortunately, there is no provision to require Verizon to begin reporting on a given metric within a defined period of time. If and when Verizon finally adopts the New York metrics, WorldCom fully expects to see "UDs" and "URs" appearing in place of data whenever it suits Verizon's purposes.

III. THE REMEDIES IN PENNSYLVANIA ARE AN INADEQUATE DETERRENT TO VERIZON DISCRIMINATING AGAINST CLECS

24. Because performance remedies depend on performance reports, when, as here, the accuracy and verifiability of Verizon's performance reports are not established, the entire system of performance remedies is fatally compromised. But even if Verizon were accurately reporting its performance, serious problems with the PAP make it an inadequate deterrent against discriminatory treatment.

25. As to Tier I credits, the PUC's requirements of "pro rata" payments for service "not received" has never been explained. Given this uncertainty, it appears that Verizon itself can determine whether and how much credit to give. This is a classic example of the fox guarding the henhouse, and provides no protection to CLECs. In addition, this part of the plan is not self-executing and will greatly burden CLECs in fighting over what they are due. I am not aware of any CLEC receiving Tier 1 payments. Certainly WorldCom has never received such payments, notwithstanding well-documented problems with Verizon's performance. No plan approved by the FCC so far has put as much burden on the CLEC as the final Pennsylvania plan. This is at odds with the FCC's criteria for remedy plans, as specified in its order approving Verizon-New York's 271 application that the plan be "a self-executing mechanism that does not leave the door open unreasonably to litigation and appeal." In the Matter of 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, ¶ 433 (Dec. 21, 1999).

26. The Commission needs to ensure that the Tier I remedies are auditable, and that they actually exist. Further, Verizon should proactively calculate the remedies that are due under Tier I – the burden should not be on CLECs to come to Verizon. Finally, Tier I remedies should apply when service was expected in a certain time period or at least expected to work properly, and Verizon did not provide the service in either a timely or adequate manner. No other remedy plan accompanying a section 271 petition approved by the Commission has set first month remedies at such insignificant levels.

27. There are equally substantial problems under Tier II of the plan. Because Tier I remedies are essentially meaningless, and Tier II remedies are not triggered until the second month of failure on a given metric and do not result in significant payments until the fourth month, Verizon can provide egregiously inadequate performance in a given metric for three months and pay only a total of $8,000 ($0 in the first month, $3,000 in the second month, and $5,000 in the third month). Even in the fourth month, when payments reach $25,000, they are inadequate to deter anticompetitive conduct. There is simply not enough bite in this plan to deter bad behavior.

28. The overall amounts of remedies payable, especially for long-term discriminatory performance are grossly insufficient. For example, Verizon claims that if it missed only 25 of the submetrics for 35 CLECs over an entire year, it would face over $200 million in Tier II remedy payments, which represents over 40 percent of Verizon's 2000 Net Return in Pennsylvania. Guerard/DeVito/Canny Decl. ¶ 162. But this is a highly unlikely occurrence.

Missing even a handful of major metrics could greatly harm competition without resulting in significant levels of remedies. Verizon might well cripple competition severely by providing poor performance to its largest competitors on ten key metrics for three straight months and owe only $80,000 per competitor harmed. Indeed, under the current structure of the plan, Verizon could miss the benchmark for System Availability by crippling percentages off and on for several non-consecutive months and pay no remedies.

29. What CLECs need is not just the prospect of an eventual remedy for their past damages, but a sufficient incentive to cause Verizon to avoid or repair the problems that can cripple CLECs' business. Moreover, because the payments do not increase with the severity of failure, nor automatically increase above $25,000 per metric, if Verizon were to provide extremely discriminatory performance to a single competitor – even its largest – so that it was forced to pay Tier II remedies for 10 metrics for the entire year, it would owe that competitor only $2,330,000 – a tiny fraction of its annual net revenue. Clearly, this would be a reasonable cost of doing business to eliminate its largest competitor. In fact, far less extreme performance failure could have a devastating effect on CLECs.

30. Additionally, Tier II payments should be paid on a disaggregated basis, and not by metric. Payment on a per metric basis, without disaggregation by product and geographic criteria, raises the ability of Verizon to harm particular market sectors without consequence, for if a particular product is included within a metric where Verizon is providing adequate service as to other products, it is possible that Verizon can escape liability while harming users of that

product. For example, poor performance in loop provisioning might not lead to any remedy because it is reported in the same metric as UNE-P service, where service might be good. Likewise, the lack of geographic disaggregation increases the likelihood that Verizon could provide discriminatory service in rural areas without consequence, as the number of urban customers included in the same metric will outweigh the rural ones. Verizon's win on aggregating and weighting metrics upon reconsideration has severely limited its remedy liability without benefit to CLECs. First of all, Verizon has not explained how remedies relate to the product. Remedies should be due for both POTS and Specials regardless of how much activity the CLEC has in each product area. Verizon's reporting and lack of vouchers on remedy plan payments also give the CLEC no way to check whether it agrees with the weighting. Verizon should be required to disaggregate by each product the CLEC is buying. Good performance in one product should not offset poor performance in another, especially when the discrimination is against the higher end product. With the application of the remedy plan at the metric level instead of the submetric level (a change from the Pennsylvania ALJs ruling as first adopted by the PUC that all product disaggregations should be covered), and leaving the definition of what constitutes a metric to Verizon, has severely weakened the plan. Verizon-Pennsylvania's remedy plan covers fewer metrics than New York (122 metrics were included the Mode of Entry part alone of the New York PAP at the time of approval, and even more are included now with the new DSL MoE.) and much less than the 2000 submetrics covered by the SBC-Texas remedy plan. Further, the Pennsylvania plan's sample size threshold of 10 data points before the

remedies apply makes low volume categories such as change control (which has its own substantial remedy plan in New York--the Change Control Assurance Plan) and trunking unlikely to result in remedies no matter how poor the performance.

31. Additionally, just as Verizon is not properly reporting on the metrics, neither is it properly reporting on the remedies. As detailed in the February 2001 Commercial Availability Filing, Verizon often is not calculating Tier II remedies properly, which has led to Verizon not paying remedies when they were due. This problem has continued unabated. For example, on metric OR-6-01, in the April report Verizon indicates that it satisfied the metric and so paid no remedy. Yet in the May report Verizon indicates that it missed the metric for four straight months. Worse still, Verizon has not paid the newly increased penalty for its failure to meet the metric.

32. The Pennsylvania PUC is well aware of these problems, and has recently established a "rebuttable presumption" that the New York remedies should be substituted for the inadequate Pennsylvania remedies. The New York remedy plan does indeed provide much more deterrence than the Pennsylvania plan – especially because of its critical measures and mode of entry triggers. Verizon is paying approximately $400,000 each month to WorldCom for inadequate performance in New York. Essentially similar inadequate performance in Pennsylvania is costing Verizon less than $20,000 a month, even though WorldCom's installed customer base in Pennsylvania is now over one-third as large as New York and its order volume is over half as large.

33. Unsurprisingly, Verizon is now vigorously opposing the importation of the New York remedy plan into Pennsylvania. As a result it cannot properly rely on the New York remedies for purposes of this application. Not only has it formally opposed the New York plan at the Pennsylvania PUC, Verizon has not even agreed to abandon its legal position that Pennsylvania has no right to impose any remedies on its misconduct (while it withdrew its appeal on the issue, it refused to dismiss the case with prejudice). Under the circumstances, Pennsylvania's preference that Verizon adopt the New York remedy plan shows only that even the PUC is aware that the current plan is inadequate. Certainly, this Commission should not approve Verizon's current application without knowing whether the many needed improvements to the remedy plan will be made and promptly implemented.

CONCLUSION

34. For the reasons set out above, Verizon must modify and correct its performance standards reporting and remedies before obtaining section 271 authorization.

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

Executed on July 10, 2001.

Karen A. Kinard

TAB C

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InterLATA Services in Pennsylvania	)	
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DECLARATION OF CHRIS FRENTRUP
ON BEHALF OF WORLDCOM, INC.

Based on my personal knowledge and on information learned in the course of my duties, I, Chris Frentrup, declare as follows:

I. INTRODUCTION AND SUMMARY

1. My name is Chris Frentrup. I am employed by WorldCom, Inc. ("WorldCom") as a Senior Economist in the Public Policy Analysis Group of the Federal Advocacy organization. In that position, I am responsible for analyzing economic issues relating to telecommunications industry regulation and public policy, and assisting in the development and advocacy of WorldCom's public policy positions. I have participated in the development and advocacy of the HAI Model, a model used in the estimation of telecommunications network costs. I have also worked extensively on the assessment of local exchange carrier productivity in the Commission's price cap proceedings.

2. The purpose of my Declaration is to demonstrate how the methodology used in Pennsylvania to set Verizon's current unbundled network element ("UNE") rates is not

based on the total element long run incremental cost ("TELRIC") methodology, despite Verizon's representations to the contrary in its recently filed section 271 application. See Verizon-Pennsylvania Brief at 82.

II. VERIZON'S METHODOLOGY FOR DETERMINING LOOP RATES IMPROPERLY INCLUDES COSTS OF BROADBAND LOOPS

3. The loop design used to set Verizon's rates violates the Commission's mandate in 47 C.F.R. Section 51.505(b)(1) that costs be calculated on the basis of the most efficient telecommunications technology currently available and the lowest cost network configuration. The unbundled loop rates include the cost of deploying broadband-capable loops, even though these provide no benefits to entrants that wish to connect to Verizon's network for the purpose of providing voice grade service.

4. Verizon and the Pennsylvania PUC attempt to justify including broadband costs on the grounds that Verizon is obligated under Pennsylvania law to construct broadband loops. This argument is irrelevant. Verizon's obligation to deploy broadband capability arises from its own network modernization plan, which it negotiated with the PUC in 1995.[1] However, the Act and the Commission's rules do not allow Verizon to pass on the costs of this modernization to Verizon's competitors.

5. The inclusion of broadband capable loops in the development of the cost of unbundled loop rates leads to overstated costs in two ways. First and foremost, it requires the placement of more expensive fiber further out to the customer than would otherwise be justified.

[1] It is worth noting that Verizon exceeded the requirements of state law by agreeing to provide transmission speeds of at least 45 Mbps, at least in part to allow it to provide video services.

Second, the inclusion of this broadband build-out requirement was used to justify, in part, the shorter depreciation lives for copper cable, current generation digital switches, and circuit equipment that were used in setting Pennsylvania UNE rates. These shortened lives lead to greater depreciation expense, and thus to higher costs.

III. VERIZON INAPPROPRIATELY INCLUDED UNIVERSAL DIGITAL LOOP CARRIER ("DLC") IN THE DEVELOPMENT OF FORWARD-LOOKING DLC COSTS

6. Another method by which Verizon raised loop costs above TELRIC levels was in its development of Digital Loop Carrier ("DLC") costs. Verizon computed the forward-looking costs of DLC as a weighted average of the current Integrated DLC and Universal DLC costs. The weights it used reflected its existing mix of universal and integrated DLCs, with no justification provided for why this mix is appropriate for a forward-looking network. In fact, integrated DLC is the forward-looking technology. Therefore, the costs of DLC used in setting UNE rates should have reflected only the cost of integrated DLC.

7. The Pennsylvania PUC itself recognized that setting the cost of DLC in this manner was incorrect. In its Global Order, it acknowledged that the forward-looking costs of DLC were in fact lower than the cost of either Integrated or Universal DLC.[2] However, when the Pennsylvania PUC ordered corrections to Verizon's cost studies in the Global Order, it did not correct the overstated DLC costs.[3] Thus, the DLC costs on which the Pennsylvania rates are set are based on an acknowledged but uncorrected deviation from TELRIC.

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2 See Global Order (Joint Petition of Nextlink Pennsylvania, Inc. et al., Pa. PUC Dkot. Nos. P-0099168, P-00991649 ("Global Order") at 70.

3 Id at 73. The PUC adopted the results from a prior alternative run of Verizon's model that adjusted only the cost

IV. VERIZON USES UNREASONABLY LOW FILL FACTORS

8. Verizon also overstates costs through the use of unreasonably low fill factors, i.e., the portion of a piece of equipment that is actually used. For fiber cable, Verizon uses a fill factor that is less than the 100 percent factor that the Commission has determined is appropriate in the Universal Service proceeding. A 100 percent fill factor is reasonable because the capacity of fiber can be adjusted by varying the electronics used. Verizon's use of a lower factor overstates its costs. Similarly, the fill factors used for copper cable and DLCs are unreasonably low, and reflect Verizon's current fills rather than the fill that would be achieved by an efficient carrier. Because Verizon's current fill factors include spare capacity to handle future growth, allowing the use of these fill factors imposes the cost of facilities intended for future use on current customers. Use of these understated fill factors will lead to overstated costs.

V. VERIZON OVERSTATES SWITCHING COSTS

9. Verizon also overstated switching costs. First, it used a combination of the discounts on new and add-on switch prices to determine the price of switches. As the Commission determined in the Universal Service proceeding, the network built in a TELRIC model will place new switches at a level sufficient to meet demand, without the need for augmenting switches later. Thus, only the discounts for new switches should be used to determine the price of switching. Furthermore, Verizon used a mix of new and add-on switch discounts that reflects its own ratio of the two switch types. Even if it were correct to use some

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of capital and some fill factors. Even with these two adjustments, which of course did nothing to correct the overstated DLC costs, UNE rates remain unreasonably high.

weighted average of new and add-on switch discounts, Verizon has presented no evidence that its mix of those two types of switches reflects the mix that a carrier would use if it were building the most efficient network using forward-looking technology, as is required by the Commission's TELRIC rules.

10. A second method by which Verizon overstates switching costs is in the way that it incorporates the cost of features. Rather than developing a switching rate that includes the costs of all the features inherent in the switch, Verizon computes separate costs for a package of originating and terminating features. Verizon did not explain whether it selected this particular package of features because they were the most popular in its region, or the most expensive, or on some other basis. However, it is clear that the switching rates do not include all the features available in Verizon's switches. It is also clear that Verizon has included the costs for features as if they were separate retail services, and overstates the number of features used per call. This method clearly overstates switching costs, and results in an excessive local switching rate.

VI. THE DEPRECIATION LIVES USED TO SET VERIZON'S UNE RATES ARE TOO SHORT

11. Finally, Verizon projects costs for all its unbundled network elements that are too high because it uses depreciation lives that are too short. The depreciation lives proposed by Verizon and adopted by the Pennsylvania PUC reflect Verizon's view of the effect of developing competition on the value of its equipment, and its commitment to modernize its network. The alternative lives proposed in this proceeding were the Commission's prescribed

lives, which are used in Verizon's books of account under the Commission's rules, and that were adopted by the Commission for use in the Universal Service proceeding.

12. The lives prescribed by the Commission reflect an assessment of both the ILEC's experience with actual retirements and its projections and plans for future retirements, arrived at after consultation between the ILEC, the Commission, the state PUC, and other interested parties. As such, those lives reflect the most reasonable basis for determining lives to be used in setting UNE rates. Accepting Verizon's estimate of the effect of competition on depreciation lives ignores the fact that the prescribed lives already reflect an estimate of that effect that is arrived at based on actual data and input from all parties. In addition, shortening depreciation lives because Verizon is modernizing its network for purposes other than the provision of voice grade service would require Verizon's competitors to subsidize this modernization, as discussed above.

VII. CONCLUSION

13. For all these reasons, the cost model used to set UNE rates in Pennsylvania do not reflect TELRIC. Given the ruling by the court and the acknowledgment by all parties in the proceeding that the rates were not based on TELRIC, the Commission should give no deference to the state PUC's determination that the UNE rates are reasonable TELRIC-based rates. In light of the problems with the inputs and model structure outlined here, the Commission should reject Verizon's 271 application and require Verizon to correct its UNE rates to reflect TELRIC.

14. This concludes my Declaration on behalf of WorldCom.

I declare under penalty of perjury that the foregoing is true and correct. Executed on July 11, 2001.

Chris Frentrup