

# ***NONPROPRIETARY***

## **BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Further Pricing of Verizon Pennsylvania Inc.'s Unbundled Network Elements	:	Docket Nos. R-00005261 and R-00005261C0001
Petition of Covad Communications Company For an Arbitration Award Against Bell Atlantic-Pennsylvania, Inc. Implementing the Line Sharing Unbundled Network Element	:	A-310696F0002
Petition of Rhythms Links, Inc. for an Expedited Arbitration Award Implementing Line Sharing	:	A-310698F0002
Joint Petition of Nextlink Pennsylvania, Inc.; Senator Vincent J. Fumo; Senator Roge Madigan; Senator Mary Jo White; the City of Philadelphia;; The Pennsylvania Cable & Telecommunications Association; RCN Telecommunications Services of Pennsylvania, Inc.; Hyperion Telecommunications, Inc.; ATX Telecommunications; CTSI, Inc.; MCI WorldCom; and AT&T Communications of Pennsylvania, Inc. for Adoption of Partial Settlement Resolving Pending Telecommunications Issues	:	P-00991648
Joint Petition of Bell Atlantic-Pennsylvania, Inc.;; Connectiv Communications, Inc.; Network Access Solutions; and the Rural Telephone Company Coalition for Resolution of Global Telecommunications Proceedings	:	P-00991649
Pennsylvania Public Utility Commission v. Bell Atlantic-Pennsylvania, Inc.	:	R-00005314
Covad Communications Company, MCI WorldCom, Inc., and Rhythms Links, Inc. v. Bell Atlantic-Pennsylvania, Inc.	:	R-00005350C0001

### **RECOMMENDED DECISION**

**Before  
Louis G. Cocheres  
Administrative Law Judge**

should be compensated for Bell-NY's loop conditioning costs. In addition, the New York Commission was dissatisfied with the methodology in the Bell-NY cost study. It reasoned as follows:

More of a disallowance is warranted here, inasmuch as Bell Atlantic-New York was clearly on notice, given the Phase 2 and Phase 3 decisions, of what was expected of it by way of proof. All told, a 70% disallowance will be applied, and each of the charges at issue here will be set at a level equal to 30% of Bell Atlantic-New York's proposal.

This outcome reasonably takes account of Bell Atlantic-New York's failure of proof; of the reality of the costs that it nonetheless will incur; and of the fact that these rates will be in effect only until Module 3 is decided . . . .

Proceeding on Motion of the Commission to Examine New York Telephone Company's Rates for Unbundled Network Elements, New York Public Service Commission, Opinion and Order, at Docket No. 98-C-1357; Opinion No. 99-12, 1999 N.Y. PUC Lexis 759, December 17, 1999, at \*62 - \*67. VZ-PA M.B., Ex. B at 28-29. I am inclined to apply the same kind of rationale to this case. Given that the rate should only be in effect for the thirty day collaboration period and/or an expedited hearing procedure before the Office of Administrative Law Judge, I find that the exercise of informed judgement allows me to split the difference between the Company and the CLECs and set rate at 50% of the proposed rates with the right of full refunds for conditioning costs paid during the pendency of this case.

C. LOOP QUALIFICATION COSTS

Verizon's original filing proposed rates for three forms of information inquiries about loop qualifications, 1) mechanized loop qualification, 2) manual loop qualification and 3) engineering query. The mechanized loop qualification system can be accessed using the Operations Support System (OSS). However, it can only tell the CLEC whether the loop is qualified or not. The Company was not offering direct access to its Loop Facilities Assignment and Control System (LFACS). If the loop is not qualified, the CLEC must submit an engineering query to discover the reason for disqualification. VZ-PA St. 2.0 at 10-12. The Company also proposed that the CLECs give VZ-PA information on the proposed use of the loop to assist in the search.

The CLECs criticized the nature and extent of the data access options as well as the proposed rates. Sprint offered the following response to the Company position:

In its Main Brief, Verizon notes that it will provide CLECs with a "yes/no" response if presented with a request for information regarding "the presence" of Digital Loop Carrier ("DLC") equipment or load coils.<sup>7</sup> Under Verizon's plan, for example, the CLEC must guess at the existence of the DLC. If the CLEC incorrectly guesses, then Verizon merely responds by stating "no presence" of a DLC and no additional information is provided at this juncture.

The reality at hand is that a CLEC will not know specific loop information unless that CLEC has already received a request for advanced services from a Verizon end-user customer. A CLEC, with an already-developed plan to provide advanced services to a particular community is hampered by Verizon and must request conditioning status of each individual loop, rather than being provided access to the necessary loop information for the larger area.

Under the “manual loop qualification process” developed by Verizon, no additional information regarding the qualities and capabilities of the loop is provided to the CLEC, despite the fact that Verizon has that information available to it by virtue of its historic status as the incumbent. Moreover, as WorldCom correctly notes,<sup>8</sup> if the CLEC presses on, it must request for an engineering query and via that process must provide detailed information to Verizon about the uses to which it intends to put the facility. Only after this “process,” along with the various charges proposed by Verizon, can a CLEC obtain access to detailed loop information that is always immediately available to Verizon.

Clearly, on the one hand, this “process” proposed by Verizon is questionably compliant with the FCC’s *UNE Remand Order*<sup>9</sup> and with sound regulatory policy.<sup>10</sup> On the other hand, Verizon argues that if it were required to make available detailed loop information for all Verizon loops via an expanded database, such would equate to “a massive and highly expensive effort” and would “take years to implement.”<sup>11</sup> Per Verizon, CLECs are being unreasonable in their alleged request for a “fully populated database with loop make-up data for all loops, but refusing to pay for it.”<sup>12</sup>

As both a CLEC and ILEC, Sprint can “see both sides” of the issue and can empathize with the business needs driving each side. Having said as much, Sprint submits that Verizon’s position is based upon several inflated, inaccurate assumptions: (1) All CLECs want all loop make-up information for all Verizon loops; and (2) Verizon must be given “CLECs’ data requirements for loop information” in order to create such a database for all loops at the same time – *i.e.*, the Bellcore/Telcordia proposal.<sup>13</sup>

Conceptually, Verizon’s position that these access-to-information issues can be resolved via

meeting(s) with CLECs is certainly a step in the right direction.<sup>14</sup> However, Verizon's approach to such meeting(s) is "backwards" in that Verizon's goal is to seek "CLECs' data requirements for loop information" rather than to provide CLECs with the necessary qualities and capabilities of the loop.<sup>15</sup> Thus, Sprint supports the use of an additional, on-the-record technical conference/meeting, if properly structured so that the burden is on Verizon to provide specific loop qualities and capabilities by wire center and/or DLC to the CLECs.

In sum, Verizon – and Verizon alone – has access to the facilities information for specific geographic areas and the qualities and capabilities of the loops in those areas. The CLECs, on the other hand, have completed business plans and seek loop qualification information for particular geographic areas (*e.g.*, Hershey). If Verizon were truly interested in establishing an efficient process for CLECs to access loop qualification information, then Verizon at these meeting(s) must first come forward with the information for each particular geographic area identified and sought to be served by the CLEC. Otherwise, Verizon's proposal to require CLECs to undertake a "seek and find" of Verizon's loop plant or else attend meeting(s) at which CLECs would divulge their reasons/requirements for loop qualification information under the guise of funding a Bellcore/Telecordia database is completely unreasonable from both a reasonable ILEC and reasonable CLEC perspective.

As to costs, Sprint submits that the cost of access to loop makeup information should be based upon an efficient, forward-looking technology. Verizon has not met its burden of proof in this regard and, therefore, the costs/charges submitted by Covad/Rhythms are more in line with TELRIC pricing and are more consistent with the pro-competition goal of the Global Order and the FCC's UNE Remand

Order than the non-compliant rates proposed by Verizon.

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7 Verizon M.B. at 22-23.

8 WorldCom M.B. at 17.

9 The FCC's *UNE Remand Order* can be linked to as follows:  
[http://www.fcc.gov/Bureaus/Common\\_Carrier/Orders/1999/fcc99238.pdf](http://www.fcc.gov/Bureaus/Common_Carrier/Orders/1999/fcc99238.pdf)

10 Covad/Rhythms cites to the FCC's *UNE Remand Order*, in part, for the position that Verizon must provide access to loop makeup information sufficient for the CLEC to make an independent determination of the suitability of the loop for the services it wishes to offer. Covad/Rhythms M.B. at 20-23. AT&T argues that Verizon's proposed loop qualification charge attempts to double-charge CLECs given that the unbundled loop rate already reflects a tested, functional loop. AT&T M.B. at 20.

11 Verizon M.B. at 27.

12 *Id.* (emphasis supplied).

13 *Id.* at 27, 28-29.

14 *Id.* at 28-29.

15 In other words, the DLC may be capable of many functions related to the provisioning of advanced services. However, under Verizon's proposal, the CLECs must first come forward with their specific requirements for a DLC in order for Verizon to ascertain if that loop, etc. is qualified to provide those advanced services.

Sprint R.B. at 2-6. (Emphasis in the original.) Generally, I agree with all of Sprint's evaluations. Indeed, I attribute special credibility to its position because it is both an ILEC and a CLEC. More specifically, Verizon's plan is both cumbersome and costly. The purpose of loop qualification is to give information to the CLEC quickly so that the CLEC can make an independent judgment about what uses can be applied to the loop. There is no justification for requiring the CLEC to give the Company any information about the intended purpose or to limit the scope to one line at-a-time inquiries. I note that the plan offered by VZ-PA

appears to be exactly the same as the one criticized and rejected in the Global Order at 113-117. I emphasize that the Global Order was entered on September 30, 1999. At that time the Commission rejected the mechanized loop qualification database as insufficient to meet the CLECs needs. Id. at 116. The Commission stated:

Rather, BA-PA must provide real-time access to its loop makeup information on an electronic, fully-automated basis. This access can most easily be accomplished by providing CLECs with access to existing electronic databases that contain the relevant data, such as LFACs.

Id. at 115. (Emphasis added.) (Footnotes omitted.) Approximately, a year and a half later Verizon proposing rates for access to the same mechanized loop database, and not offering access to LFACS.

On the subject of LFACS, by letter dated February 28, 2001 from counsel for Covad/Rhythms and counter-signed by counsel for VZ-PA, the parties informed me of a stipulation, as follows:

[The parties] wish to inform you that a stipulation has been reached that avoids the need for Your Honor to render a determination with respect to the LFACs Loop Qualification issue in this proceeding. Covad, Rhythms and Verizon have agreed that any charges sought by Verizon for CLEC access to the LFACs database for loop makeup information for Pennsylvania loops will be determined in a subsequent Pennsylvania cost proceeding.

Id. at 1. (A copy of the letter is attached to this decision.) The letter continued that the other parties to the case were informed of the stipulation and did not

object. While I have no problem accepting the stipulation into the record of this case, I find two related and disturbing issues remain. The first issue is somewhat repetitious and concerns the idea that the Company failed to follow the Commission's directive in the Global Order to make LFACS available to the CLECs. Global Order at 115. The second issue is that, given Verizon's initial failure to follow the Commission's directive, there is no time limit for performance in the stipulation. Accordingly, I recommend the Commission exercise its authority to modify the stipulation and add a time limit. 52 Pa. Code §5.234(b). I recommend that the Verizon make access available to the LFACS and similar databases through the OSS interface within 90 days of the entry of the Commission's order which resolves the exceptions to this Recommended Decision. The case for setting the data dip charge can be held thereafter.

Having disposed of the LFACS issues, the questions remain about what to do with the original three searches offered by the Company. With respect to the mechanized loop qualification, I find, based on the Global Order, that it does not meet the CLECs needs for loop information. However, because it offers at least a starting place and even though its importance will dwindle as LFACS is brought on line and updated, some charge is appropriate. VZ-PA proposed a monthly, recurring rate of \$.45 per loop. However, that proposed rate is based on the flawed, "updated" MFS Phase III study without modification by Scenario 9. In addition, the Covad/Rhythms witnesses pointed out that it includes recovery of the cost of creating and maintaining an automated database which would be used for VZ-PA's retail DSL operations. Covad/Rhythms St. No. 1 at 140. I agree that the CLECs should not be paying rates which are used to help fund the Company's retail operations. Accordingly, the rates should be reduced to conservatively eliminate the built in overrecovery in the "updated" study. I recommend the rate

be lowered by 50% to \$.22. (A more detailed explanation of my reasoning to support the 50% reduction will be presented in Section III A.1., infra.)

The remaining two procedures are manual in nature, manual loop qualification and engineering query. The Company described these procedures, as follows:

When a loop is not included in the database, or when the database indicates that the loop is not qualified for xDSL and the CLEC wants to determine *why* it is not qualified (*e.g.*, the presence of load coils, bridged taps, Digital Loop Carrier (“DLC”) equipment, or excessive loop length), the CLEC may request that Verizon PA manually review its records.

The manual loop qualification process gives CLECs the following information for loops not included in the mechanized database: (i) total metallic loop length (inclusive of bridged tap); (ii) presence of load coils (yes/no); and (iii) presence of DLC equipment (yes/no). To obtain this information, Verizon PA first checks the Loop Facility and Assignment Control System (“LFACS”) database for the requested information.<sup>60</sup> Verizon PA may also perform a MLT test, where possible. Where the test is carried out and fails, *i.e.*, indicates that the loop is not qualified, Verizon PA determines the reasons for the failure, and reports the results to the CLEC. Where the test is carried out and passes, no further information is required, and the qualification result is simply reported. Where an MLT test is not possible, Verizon PA will review the relevant cable plats to obtain the requested information.<sup>61</sup>

In some cases, a CLEC may want additional information even beyond that provided by the mechanized and manual loop qualification processes, including the number and location of bridged taps

and/or load coils, the location of DLC equipment, or the cable gauge at specific locations. In response to a CLEC request for this information, Verizon PA will conduct a manual review of its cable plats and provide the information to the requesting CLEC. The charge associated with a CLEC's request for an engineering query recovers the costs to process and respond to these requests.<sup>62</sup>

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60 LFACS is a BellCore-designed system that inventories and assigns all loop facilities from the serving terminal to the main distribution frame in the central office. It is not a circuit design tool.

61 Verizon PA St. 2.0 (Panel Direct) at 13-14.

62 Verizon PA St. 2.0 (Panel Direct) at 14-15.

VZ-PA M.B. at 22-23. (Emphasis in the original.)<sup>11</sup> Verizon proposed charging a nonrecurring \$95.27 charge for the manual loop qualification procedure and a nonrecurring \$123.60 charge for the engineering query. The CLECs argued that these data gathering methods were cumbersome, inefficient, redundant and should be provided at no or minimal costs. Covad/Rhythms St. No. 1 at 146-149. Even though the CLEC criticisms are true, they overlook the Commission's awareness that the Company system was not fully automated and directions to make the data manually available immediately "as close to a real-time basis as possible, by phone, fax, or other means." Global Order at 117. I find that VZ-PA failed to comply with the "immediacy" portion of the Global Order, but that these two service offerings were contemplated by prior Global Order. I emphasize again that, in addition to the valid inefficiency, etc. criticisms, these rates were calculated using the "updated" MFS Phase III study which I have concluded is inflationary.

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11 Note that the first item listed for the manual loop qualification is to check the LFACS database. At the risk of continued repetition, this description highlights the importance of the database, the need for it to be accessible on the OSS interface and the failure of the Company to make the database available.

Accordingly, the rates should be reduced to conservatively eliminate the built in overrecovery in the “updated” study. I recommend the rate be lowered by 50% to a nonrecurring \$47.63 charge for the manual loop qualification procedure and a nonrecurring \$61.80 charge for the engineering query. (A more detailed explanation of my reasoning to support the 50% reduction will be presented in Section III A.1., infra.)

D. TESTING COSTS

1. Cooperative Testing

The CLEC Coalition described and argued the issue as follows:

In addition to the basic charges for removal of bridged taps and load coils, Verizon also proposes a Cooperative Testing charge to be assessed when Verizon performs continuity testing at the request of a CLEC.<sup>65</sup> Verizon’s proposed charge is inappropriate and should be rejected.

As noted by Verizon, cooperative testing came about in New York in the context of Verizon’s Section 271 proceeding in response to provisioning problems encountered by competitors who found that a substantial number of xDSL-capable loops provisioned by Verizon-New York, Inc. (“Verizon-NY”) did not even meet basic continuity requirements.<sup>66</sup> These problems required both Verizon-NY and its competitors to perform additional manual testing, with associated costs, that these companies would not have chosen to perform if Verizon-NY had properly provisioned loops as required in its interconnection agreements. There is no reason to believe that Verizon’s performance in Pennsylvania will be any different.





1 SSNS invokes the same Live Wire transaction as is invoked by  
2 CORBA, EDI or Web GUI.

3 MR. BARBER: Part of the discussion I was hearing  
4 from Ms. Stern seemed to be indicating that Verizon -- it  
5 may have been Ms. Stern or Mr. White -- indicating that  
6 Verizon set this Live Wire database up with the view that  
7 obviously there was no interest from the CLECs in having  
8 Verizon do this.

9 Did Verizon try to determine whether or not there was  
10 some industry interest in having Verizon Pennsylvania or  
11 Verizon wholesale actually do the loop qualification for  
12 them?

13 MR. WHITE: I guess I answered differently; that we  
14 started building a database with information and we enhanced  
15 it based on the CLEC request. The CLECs wanted to make sure  
16 that we had loop length in there. They want the longer loop  
17 lengths. They want to know the reason not qualified. All  
18 those were at the request of CLECs, and we said okay.

19 I didn't get any requests somebody saying will you do  
20 it for me.

21 MR. BARBER: I have nothing further right now, Your  
22 Honor. Thank you.

23 JUDGE SCHNIERLE: I would like to ask a follow-up  
24 question of those that were asked by the OCA representative.  
25 I understand it, right now, any CO in which there is no

1 collocation is not in the loop qualification database.

2 That's what you said earlier, I think.

3 MR. WHITE: That was -- the plan was to get the lines  
4 tested where there is a collo, but, you know, in some cases  
5 we continue to move forward and we want to go back and  
6 finish all the offices, but they aren't done yet. There is  
7 no activity and there is no demand. Most of these ones that  
8 aren't done are very small wire centers and there hasn't  
9 been an interest to do collo there.

10 JUDGE SCHNIERLE: It costs the CLEC a considerable  
11 amount to collocate. So if I'm understanding you correctly,  
12 to find out if there are any loops that would be useable for  
13 DSL in those COs, the CLEC would first have to pay and  
14 establish a collocation cage in order to find out whether  
15 there were any customers that they could even physically  
16 reach on the system.

17 MR. WHITE: Well, actually, I tried to provide data  
18 to the CLECs that I could on an aggregate basis, whatever we  
19 could pull out of the systems to share with them, you know,  
20 the composite of the loop, to let them know what percentage  
21 had loop makeup on, if we had readings at the cross box, how  
22 far they were from the central office to try to do a profile  
23 on those central offices so they would have an idea how much  
24 is on DLC and how much is on copper and what we thought the  
25 loop lengths are.

1           They're all very high level planning numbers, but  
2 I've tried to provide that granularity on all central  
3 offices.

4           MR. PETRILLA: Your Honor, my witness has been  
5 listening to some of the recent testimony and had a couple  
6 of questions that they wanted me to ask, if that would be  
7 all right.

8           JUDGE SCHNIERLE: Yes.

9           MR. PETRILLA: The first question was: setting aside  
10 the fact that Verizon did not receive any requests for  
11 Verizon to do pre-qualification for CLECs, did Verizon send  
12 out an industry letter to the CLECs alerting them that it  
13 would be willing to do that?

14          MS. STERN: No.

15          MR. PETRILLA: The second question is: when Verizon  
16 --

17          MR. WHITE: We're the wholesale side of the business  
18 and I'm a little -- I didn't know about this other stuff  
19 that was going on, but this sounds like our retail voice and  
20 there is some marketing joint relationships. We're not  
21 knowledgeable on the retail side of the house. I don't know  
22 what contacts have been made on the other side or what  
23 marketing partners have been looked at.

24          MS. STERN: There was a period of time -- and I don't  
25 know if Clare Beth wants to chime in on this -- where a lot



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SERVICES FOR OTHER TELEPHONE COMPANIES

The name of Bell Atlantic-Pennsylvania, Inc. has been changed to Verizon Pennsylvania Inc. All references throughout this Tariff to The Bell Telephone Company of Pennsylvania, Bell Atlantic - Pennsylvania, Inc., "the Telephone Company" or "the Company" shall be read as Verizon Pennsylvania Inc. (C)

DIRECTORY LISTINGS FOR OTHER TELEPHONE COMPANIES

B. REGULATIONS (Cont'd)

5. BA-PA may refuse listings which do not comply with Pa. P.U.C. No. 1, Section 5. BA-PA, upon notification to the OTC, will withdraw any listing which is found to be in violation of its rules with respect to that section.
6. The OTCs will provide BA-PA with daily listing information on its end users in the format required by BA-PA. The information shall include the end user's name, address, telephone number, the delivery address and number of directories to be delivered and in the case of a business listing, the primary business heading in which the business customer desires to be placed and any other information necessary for the publication and delivery of directories. The OTC will also provide BA-PA with daily listing information showing end users that have disconnected or terminated service with the OTC.
7. In order for listings to appear in an upcoming BA-PA directory, the OTC must furnish the listing in time to meet the directory publishing schedule.
8. BA-PA will also include the OTC's end users primary listings in the Directory Assistance database on the same basis as BA-PA's end users are included, as well as in other audible and electronic listings in which BA-PA's end users are ordinarily included, for no additional charge.
9. BA-PA will distribute to the OTC's end users copies of their primary white page and yellow page directories at the same and on the same basis as provided to BA-PA's end users. BA-PA will also deliver a reasonable number of such directories to the OTC.
10. The OTC will adhere to all practices, standards, and ethical requirements of BA-PA with regard to listings, and will warrant to BA-PA that they have the right to place such listings on behalf of their end users, and that any business or person to be listed is authorized and has the right (1) to provide the product or service offered, and (2) to use any personal or corporate name, trade name or language used in the listing.
11. BA-PA will give the OTC's end user's directory listings information the same level of confidentiality that BA-PA gives its own directory listing information.
12. BA-PA will ensure that access to the OTC's end user's customer proprietary directory information will be used solely for the purpose of providing directory services; except that BA-PA may use or license its data base, to the extent permitted by law or regulation, for direct marketing so long as the OTC's end user's are not separately identified as such.
13. BA-PA will ensure that the OTC's end user's customer proprietary confidential information will not be used by BA-PA to separately target OTC end users for the sale of telecommunications services unless those end users are identified through other means.
14. BA-PA agrees to provide directories and directory listing services available to the OTC through separate contracts.



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**PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA 17105-3265**

Public Meeting held November 4, 1999

Commissioners Present:

John M. Quain, Chairman  
Robert K. Bloom, Vice Chairman  
Nora Mead Brownell  
Aaron Wilson, Jr.

Joint Petition of NEXTLINK Pennsylvania, Inc., RCN  
Telecommunications Services of Pennsylvania, Inc.,  
Hyperion Telecommunications, Inc., ATX  
Telecommunications, Focal Communications  
Corporation of Pennsylvania, Inc., CTSI, Inc., MCI  
Worldcom, e.Spire Communications, and AT&T  
Communications of Pennsylvania, Inc., for an Order  
Establishing a Formal Investigation of Performance  
Standards, Remedies, and Operations Support Systems  
Testing for Bell Atlantic-Pennsylvania, Inc.

P-00991643

**OPINION AND ORDER**

Before this Commission for disposition is the Recommended Decision of Administrative Law Judges (ALJs) Louis G. Cocheres and Larry Gesoff, issued on August 12, 1999. Also before us are the Exceptions and Reply Exceptions to said Recommended Decision.

## I. INTRODUCTION

This Opinion and Order is our resolution of a substantial number of technically complex issues relative to Operations Support Systems (OSS) testing for the dominant incumbent local exchange carrier (ILEC), Bell Atlantic-Pennsylvania, Inc. (BA-PA), in its dealings with competitive local exchange carriers (CLECs). We will refer to these matters, generally, as performance measures. Performance measures are a matter of providing suitable and sufficient direction to the parties for evaluation of BA-PA's OSS operations.

It is important from the outset that this Commission is clearly understood with respect to performance measures: the establishment of metrics and the proposed use of those metrics (diagnostic, incentive, or both). The Commission is most interested in performance, not penalties. Our goal is to properly measure performance and, where necessary, to promote that performance. As in other competitive utility industries, we want choice and competitive access to work. To this end, it should not be necessary for the Commission to serve as the "traffic cop" for every conceivable disagreement between the ILEC and the CLECs. This statement having been made, none should doubt our resolve to see these matters through to an orderly conclusion. This Commission will do what it must in order to see that the promise of choice is fulfilled.

We note that the ALJs' Recommended Decision was crafted and issued before our *Global Order*<sup>1</sup> which, *inter alia*, directed structural separation for the wholesale and retail elements of BA-PA's business. We shall now assess performance measures, at least in part, from the context of structural separation. That is, perhaps, one of the strongest assurances of performance parity that we can have.

The effective date of the performance measures and standards adopted herein shall be the entry date of this Order, with the financial incentives and remedies to be phased in beginning April 1, 2000. We will adopt, in this proceeding, a time frame for administrative oversight of these performance measures, financial incentives, and remedies. This should not be misunderstood as rendering these measures or this Opinion and Order as "interim" in nature. We do recognize, however, that standards we set today may be impacted by technological progress or by the lack of the same. While firm, we do not wish to be inflexible in a way that would thwart our purpose of implementing competitive access and competitive markets by the least restrictive means. Therefore, we are open to reconsideration of limited issues where experience among the parties demonstrates good cause for modification of these standards or their enforcement.

Specifically, we will stand ready to convene a proceeding on our own Motion six (6) months from the effective date of the Order to reconsider such measures, incentives and remedies that are clearly unworkable. The issues to be considered may result from industry reports or the data acquired through diagnostic metrics.

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<sup>1</sup> *Joint Petition of Nextlink Pennsylvania, Inc., et al., for Adoption of Partial Settlement Resolving Pending Telecommunications Issues, and Joint Petition of Bell Atlantic-Pennsylvania, Inc., et al., for Resolution of Global Telecommunications Proceedings*, Docket Nos. P-00991648 and P-00991649, respectively, (Entered September 30, 1999), (*Global Order*).

We will further convene a technical conference nine months from the effective date of the Order to consider, in summary fashion, the appropriateness of the measures we adopt today and the effectiveness of incentives and remedies. This technical conference should be seen as the precursor to the January 1, 2001 investigation referred to below.

We will initiate an Investigation on or immediately after January 1, 2001, to consider, in detail, the appropriateness of the measures we adopt today and the effectiveness of incentives and remedies.

As we review the Recommended Decision, Exceptions, and Reply Exceptions, we are reminded that we are not required to consider expressly or at great length each and every contention raised by a party to our proceedings. (*U. of PA v. PaPUC*, 86 Pa. 410, 485 A.2d 1217, 1222 (1984)). Any exception or argument which is not specifically addressed herein shall be deemed to have been duly considered and denied without further discussion. Further, while we have not herein delineated with particularity a Party's general agreement with the Recommended Decision, such agreement has been duly noted. Accordingly, to the extent that we do not herein modify or reject the provisions of the Recommended Decision, we shall adopt the findings, conclusions, rationales, and recommendations of the ALJs.