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July 13, 2001

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**JUL 13 2001**

Magalie R. Salas, Esq.  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**Re: CC Docket No. 00-251**

**In the Matter of Petition of AT&T Communications of Virginia, Inc., TCG Virginia, Inc., ACC National Telecom Corp., MediaOne of Virginia and MediaOne Telecommunications of Virginia, Inc. for Arbitration of an Interconnection Agreement With Verizon Virginia, Inc. Pursuant to Section 252(e)(5) of the Telecommunications Act of 1996**

Dear Ms. Salas:

On behalf of AT&T Communications of Virginia, Inc. enclosed please find an original and three (3) copies of AT&T's Supplemental Comments In Support Of Its Motion To Dismiss Verizon Virginia, Inc.'s Objections To AT&T's First Set Of Data Requests And To Compel Answers.

Thank you for your consideration in this matter.

Sincerely yours,

Mark A. Keffer

cc: Service List  
Enclosures

No. of Copies rec'd 0+3  
List A B C D E

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

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JUL 13 2001

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
Petition of AT&T Communications )  
of Virginia, Inc., Pursuant )  
to Section 252(e)(5) of the )  
Communications Act, for Preemption )  
of the Jurisdiction of the Virginia )  
State Corporation Commission )  
Regarding Interconnection Disputes )  
with Verizon Virginia, Inc. )

CC Docket No. 00-251

**SUPPLEMENTAL COMMENTS IN SUPPORT OF AT&T'S  
MOTION TO DISMISS VERIZON VIRGINIA, INC.'S OBJECTIONS TO  
AT&T'S FIRST SET OF DATA REQUESTS AND TO COMPEL ANSWERS**

AT&T described in its original motion, as well as in argument on that motion at the July 10, 2001 Status Conference, why the information sought in its first set of data requests to Verizon Virginia Inc. is directly relevant to the issues raised for resolution in this arbitration, and why Verizon's blanket generic objections to those same requests are ill-founded and should be overruled. This supplemental pleading responds to the Commission's request at the Status Conference to provide additional comments concerning Verizon's refusal to respond to any questions concerning the deployment of advanced services equipment and the provision of advanced services to end users on the ground that Verizon companies other than Verizon Virginia, Inc. provide those services.

As is explained below, Verizon's objection on this ground is utterly without merit, but rather is a patently disingenuous effort to hide relevant information from legitimate discovery behind an illusory "veil" of regional corporate affiliates. Just as important, the

specific information that AT&T is seeking through each of its requests on this subject is plainly relevant to the arbitration issues before the Commission. Accordingly, Verizon should be compelled to provide prompt and complete answers to AT&T's data requests.<sup>1</sup>

**I. AT&T's Data Requests For Information Regarding The Provision Of Advanced Services By Verizon Virginia And/Or Its Affiliates, VADI Or VADVA, And Its NGDLC Network Architecture Are Proper and Verizon Should Be Compelled To Provide Complete And Prompt Responses.**

Verizon has refused to provide answers to requests seeking information about the deployment of advanced services equipment and the provision of advanced services in Virginia, claiming that the advanced services are provided, not by Verizon Virginia, but by its affiliates, Verizon Advance Data Inc. ("VADI") and Verizon Advanced Data Virginia Inc. ("VADVA"). In so doing, Verizon hides behind the veil between Verizon and VADI/VADVA. By Verizon's own actions, however, that veil has been pierced. Verizon should be required to respond fully to all requests regarding the deployment of advanced services equipment and the provision of advanced services.

Verizon was originally required as part of its merger conditions to provide DSL and other advanced services through a separate affiliate. In compliance with that requirement, Verizon established Verizon Advanced Data Inc. and Verizon Advanced Data Virginia, Inc. Given the existence of those separate affiliates, Verizon responds to questions about the deployment of advanced services equipment and the provision of DSL service by blithely stating that "Verizon Virginia" does not deploy advanced

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<sup>1</sup> This entire round of supplemental pleadings is necessary only because of Verizon's deliberate refusal to state with specificity its objections to each question in violation of 47 C.F.R. § 1.323(b) (when a party objects to an interrogatory, "the reasons for the objection shall be stated in lieu of an answer") and 47 C.F.R. § 1.325(a)(2) (when objecting to a request for production of documents, the party objecting must do so by "claiming a privilege or raising other proper objections"). Verizon has not even bothered to pretend to comply with these requirements. Instead of identifying its specific objections to each question, Verizon has simply referred to catch-all list of boilerplate objections. See Exhibit 1, *infra* (Verizon objection list).

services equipment and does not provide DSL service, when in fact Verizon, through VADI and VADVA, does deploy advanced services equipment and does provide DSL service.<sup>2</sup>

Three facts demonstrate that the thin corporate veil separating Verizon from VADI and VADVA has already been pierced and that the three entities are under common control. First, Verizon Pennsylvania worked with VADI during the Pennsylvania 271 proceeding to insure that the Commission received the information to address the checklist items as they relate to the provision of advanced services. Second, Verizon is affirmatively seeking authority from this Commission to fold VADI and VADVA back into Verizon. Verizon has filed with this Commission a request that the FCC allow Verizon to re-integrate its data affiliate into its ILEC entity.<sup>3</sup> Third, in light of the *ASCENT* decision, Verizon cannot hide behind the separate corporate structure to avoid providing information regarding the deployment of advanced services equipment and the provision of advanced services.

**A. Because Verizon Brought VADI Into The Pennsylvania 271 Proceedings When It Had The Incentive Of Long Distance Entry, It Should Not Be Permitted To Refuse To Do So Here.**

During the Pennsylvania 271 proceeding, the Staff of the Pennsylvania Public Utility Commission questioned the relationship between Verizon Pennsylvania and VADI. Moreover, the Staff questioned Verizon Pennsylvania's ability to meet its current

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The Commission should make clear that it will not tolerate further evasiveness of this kind, which serves solely to delay this proceeding and increase the litigation costs of Verizon's adversaries.

<sup>2</sup> AT&T believes that both Verizon Virginia, Inc. and Verizon Virginia Advanced Data Virginia, Inc. are wholly owned (either directly or indirectly) subsidiaries of Verizon Communications, Inc. Moreover, both Verizon Virginia, Inc. and Verizon Virginia Advanced Data Virginia, Inc. are incorporated under Virginia law, and both have received certification to operate as public utilities from the State Corporation Commission.

<sup>3</sup> *See* Letter from Verizon to the FCC dated April 26, 2000, attached to AT&T's Motion to Compel as Exhibit 1.

obligation to provide line sharing and line splitting and satisfy the Telecommunications Act's checklist item covering provision of advanced services. As a result of these concerns, Verizon Pennsylvania arranged for VADI to appear and testify at hearings with the Hearing Examiners as well as during the *en banc* proceedings before the entire Commission. Given the lure of long distance entry, Verizon had a strong incentive to cooperate and satisfy the concerns of the Hearing Examiner, the Staff and, ultimately, the Commission itself. These actions demonstrate, at a minimum, that Verizon has a significant measure of control or influence over VADI.<sup>4</sup>

Here, Verizon does not have the same incentive. Here, there is no lure of long distance entry. Instead, Verizon has a strong incentive to obfuscate the issues and to prolong these proceedings and the resulting interconnection agreement with its competitors. Not surprisingly, therefore, Verizon persists in its refusal to obtain the requested information from VADI and/or VADVA. Given Verizon's actions in the Pennsylvania 271 process, its refusal to respond here should not be countenanced. Verizon should be required to exercise the same level of control or influence over VADI that it did in the Pennsylvania 271 proceeding.<sup>5</sup>

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<sup>4</sup> Confirming its understanding of the speciousness of the corporate separation between Verizon-PA and VADI, in a letter dated July 3, 2001, the Pennsylvania Public Utility Commission placed VADI "on notice of [its] expectation that it [VADI] be an active participant" in the collaborative process established to develop industry standards for CLEC access to DSLAM equipment at Verizon Pennsylvania Inc.'s remote terminals.

<sup>5</sup> In the alternative, if Verizon persists in its refusal to cooperate to obtain information regarding the provision of advanced services, this Commission could subpoena the information from VADI or VADVA itself. The FCC has general authority to obtain information from regulated entities and VADI is an entity regulated by the FCC. See 47 C.F.R. 1.331 (Subpoena power of the FCC). If this proceeding were before the VA SCC, the VA SCC would have the same authority over VADVA, the entity certificated and regulated by the VA SCC. See 5 VAC 5-20-250 (Subpoena power of the VA SCC).

**B. Verizon's Request To This Commission To Accelerate The Reintegration Of Its Data Affiliate Precludes It From Refusing To Provide Information About VADI/VADVA Here.**

Verizon's persistent refusal to acknowledge the relevance of the provision of advanced services in this arbitration is further undermined by its recent request that the Commission eliminate "immediately" the requirement of a separate data affiliate in the *Bell Atlantic/GTE Merger Order*, and that Verizon be permitted to provide advanced services -- including DSL -- directly to its retail customers.<sup>6</sup> Verizon's request rationalized that the separate affiliate requirement "will automatically terminate no later than nine months after the D.C. Circuit's decision in *ASCENT*."<sup>7</sup>

Verizon's request provides two independent bases for piercing any remaining corporate veil between Verizon and VADI/VADVA. First, Verizon's actions make clear that VADI and VADVA are under common control with the other Verizon entities. Second, the imminent sunset of the separate affiliate requirements raises to a near certainty the likelihood that VADI and VADVA will be recombined during the effective life of any rates and other conditions established in this proceeding.

Verizon's two-faced advocacy to this Commission -- requesting immediate elimination of the structural separation requirement while relying on that separation in an attempt to avoid responding to relevant discovery -- is nothing less than a shell game that should not be tolerated.<sup>8</sup> Indeed, Verizon's own request that the last shreds of corporate

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<sup>6</sup>See Letter from Gordon R. Evans (Verizon) to Dorothy Attwood (FCC), dated April 26, 2000, at 1 ("Verizon April 26 Letter") (attached to Letter from Gordon E. Evans to Magalie Roman Salas, dated May 1, 2001); Public Notice (DA 01-1325) issued May 31, 2001 in CC Docket No. 98-184. This letter was attached to AT&T's Motion to Dismiss as Exhibit 1.

<sup>7</sup>*Id.* at 1.

<sup>8</sup>This shell game is further demonstrated by the fact that, in New Jersey, Verizon -- NJ, not VADI, offers advanced services. The New Jersey Board of Public Utilities never approved the transfer of the advanced services equipment from VZ-NJ to VADI. Therefore, consistent with the terms of the merger, Verizon - NJ

separation be eliminated is all the more reason why VADI and Verizon should be treated as the same for purposes of this proceeding.<sup>9</sup>

**C. The *ASCENT* Decision Prohibits, Verizon From Hiding Behind Its Corporate Structure To Avoid Providing Information About VADI's Provision Of Advanced Services.**

The D.C. Circuit held in the *ASCENT* case that Verizon cannot hide behind a separate data affiliate for the purposes of implementing its obligations under section 251(c).<sup>10</sup> Thus, it is imperative that Verizon be directed to respond on these important competitive issues. Specifically, the court held:

As the Commission concedes, Congress did not treat advanced services differently from other telecommunications services. It did not limit the regulation of telecommunications services to those that rely on the local loop. For that reason, the Commission may not permit an ILEC to avoid § 251(c) obligations as applied to advanced services by setting up a wholly owned affiliate to offer those services.<sup>11</sup>

Thus, the court vacated the portion of the *SBC/Ameritech Merger Order* that had exempted the advanced services provided by SBC's advanced services affiliate from the requirements of Section 251(c). *ASCENT*, 235 F.3d at 663, 668. The Commission's *Bell Atlantic/GTE Merger Order* created an exemption for Verizon's advanced services affiliate, VADI, that was identical to the exemption set aside by the D.C. Circuit.

Therefore, the *ASCENT* ruling applies here as well.

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continues to provide advanced services to end user customers. See Declaration of George Dowell, attached to Letter from Gordon R. Evans, Exhibit 1 to AT&T's Motion to Compel, at paras. 3-7.

<sup>9</sup> Notably, when carriers responding to Verizon's request to re-integrate VADI asked that the Commission require Verizon to explain its plans to assure that the re-integrated entities would not act in an anticompetitive manner, Verizon dismissed such requests and stated only that it "obviously fully intends to comply with its legal and regulatory obligations." Reply of Verizon, CC Docket No. 98-184, dated June 28, 2001 at 5. Here, however, where it is asked to provide information regarding its activities in these areas so that its obligations can be established in an interconnection agreement, it has simply refused to do so.

<sup>10</sup> *Association of Communications Enterprises v. FCC*, 235 F.3d 662 (D.C. Cir. 2001).

<sup>11</sup> See *Association of Communications Enterprises v. FCC*, 235 F.3d 662, 668 (D.C. Cir. 2001) ("*ASCENT*") (emphasis added) (footnote omitted).

Verizon, however, persists in its claim that it cannot be required to provide information regarding the advanced services that VADI provides in conjunction with Verizon Virginia. Verizon's principal argument is that issues regarding the provision of advanced services should not be an issue in this case because VADI, not Verizon Virginia, provides those services. The reality is that Verizon, in close cooperation with VADI (which *ASCENT* holds is Verizon's successor or assign for these purposes), offers DSL service directly to end-users. VADI procures DSL through a line-sharing arrangement with Verizon. VADI allegedly limits its retail sales to end user customers. Absent the existence of VADI, Verizon itself would be providing both voice and DSL service – and no line sharing would occur at all.<sup>12</sup> *ASCENT* makes clear that mechanisms based on the “separate” corporate identity of the data affiliate, such as line sharing arrangements, are to be disregarded in determining whether the requirements of the statute have been satisfied.<sup>13</sup> Under *ASCENT*, however, it is immaterial whether the party officially offering DSL to retail end-users is Verizon or VADI. The *ASCENT* decision does not countenance Verizon's formalistic reliance on corporate structure. Under the court's decision, an ILEC's corporate structure cannot serve to immunize the ILEC. *ASCENT*, 235 F.3d at 668. Verizon and VADI must therefore be viewed together as one and the same entity for these purposes, not as separate companies.

To the extent that Verizon Virginia, VADI, or VADVA hold or control the information regarding the deployment of advanced services equipment and the provision

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<sup>12</sup>Verizon's request to accelerate the re-integration of VADI into Verizon is for the specific purpose of allowing Verizon, not VADI, to provide advanced services within a matter of months, and certainly for the majority of the term of the interconnection agreement being arbitrated here.

<sup>13</sup> See *ASCENT*, 235 F.3d at 666 (“to allow an ILEC to side slip § 251(c)'s requirements by simply offering telecommunications services through a wholly owned affiliate seems to us a circumvention of the statutory scheme”); *id.* At 668 (“the Commission may not permit an ILEC to avoid § 251(c) obligations by setting up a wholly-owned affiliate to provide those services”).

of advanced services, Verizon should be required to produce the information. As shown below, the requested information is relevant to issues pending in this arbitration.

## **II. Information Regarding Deployment Of Advanced Services Equipment And The Provision Of Advanced Services Is Relevant To Several Issues Pending In This Arbitration.**

Verizon has a current obligation under the Telecommunications Act and the FCC's *Line Sharing Order* and *Line Sharing Reconsideration Order* to implement line splitting in a nondiscriminatory and commercially reasonable manner that allows AT&T to provide services in the high frequency spectrum of an existing line on which Verizon provides voice service (line sharing) or on a loop facility provided to AT&T as a UNE-loop or as part of a UNE-P combination (line splitting). To comply with that obligation, Verizon must make the arrangements necessary to enable AT&T to use the high frequency portion of the loop to provide advanced data services. In light of that obligation, the requests AT&T has made are relevant, at a minimum, to Issues III-10 (How and under what conditions must Verizon implement Line Splitting and Line Sharing?) and V-6 (Under what terms and conditions must Verizon provide AT&T with access to local loops when Verizon deploys Next Generation Digital Loop Carrier (NGDLC) loop architecture).<sup>14</sup>

These requests will also provide information as to Issue V-9 (Under what terms and conditions must Verizon and its data affiliate or their successors or assigns allow

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<sup>14</sup> There is no doubt that Verizon's next-generation loop architecture provides Verizon and its affiliates with an efficient and technically feasible means of allowing both voice and advanced data services to be carried over the same loop; there is also no doubt that it is technically feasible to enable all carriers access to such equipment so that consumers may benefit from competition for advanced services. Unless Verizon is required to respond to AT&T's discovery requests about its current deployment and future plans for NGDLC, neither AT&T nor the Commission will be able to determine whether the interconnection agreement being arbitrated here will permit AT&T (and other CLECs) nondiscriminatory access to Verizon's network elements. For a more detailed discussion of the relevance of the NGDLC architecture, AT&T respectfully refers the Commission to AT&T's Motion to Compel at 7-9.

AT&T to purchase advanced services for resale?). As noted above, the *ASCENT* decision holds that section 251(c)(4) requires Verizon – either itself or through VADI – to comply with its obligation to provide retail DSL services at a wholesale discount if either provides DSL at retail rates to retail customers. Thus, Verizon cannot lawfully restrict the availability of DSL based on what VADI purportedly does or does not do. Since Verizon is required to provide resale of the DSL service, regardless of which entity provides it, AT&T should be able to inquire here about the provision of such DSL service.

Moreover, Verizon acknowledged during the July 10, 2001, Status Conference that Verizon currently offers resale of DSL service pursuant to VADI's tariff.<sup>15</sup> Counsel for Verizon also acknowledged that the retail discount applied is the one that the VA SCC set for VZ-VA, after a review of *VZ-VA's* avoided costs. Since Verizon itself proposes to resell a VADI service at the VZ-VA discount, that construct alone establishes the close interrelationship between these corporate entities.

Finally, the information AT&T requested regarding deployment of advanced services equipment and the provision of DSL services is virtually identical to the requests Verizon submitted to AT&T in its Second Set of Data Requests. For example, Verizon requested the following information from AT&T:

2. With regard to Issue III-10, please identify the packet switching equipment AT&T seeks to collocate and the Verizon Virginia premises in which AT&T seeks to collocate such equipment.

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<sup>15</sup> VADVA's tariff includes the following language "Any telecommunications service provided under this tariff at retail to Customers who are not telecommunications carriers are available at wholesale rates pursuant to 47 U.S.C. § 251 (c) (4) of the Telecommunications Act of 1996." VADVA's VA SCC Tariff No. 1, Section 3.1. Copies of VADVA's tariff can be found at: <https://retailgateway.bdi.gte.com:1491/cyberdocs/cyberdocs.asp>. Nothing more, nothing less. This blanket statement that Verizon, through VADI/VADVA, will provide DSL is insufficient without the additional and more specific rates, terms and conditions under which Verizon will resell DSL service.

5. With regard to Issue V-6:
  - a) please define "Next Generation Digital Loop Carrier;" and
  - b) please identify the technology to which AT&T seeks access.
  
7. Does AT&T have any agreements with other CLECs that would allow the CLECs to provide high speed data or advanced services over the high frequency portion of loops associated with UNE Platforms ("UNE-P") and UNE Loops ("UNE-L") in Virginia?
  - a) If AT&T has no such agreements, describe in detail any discussions AT&T has had with other CLECs regarding whether AT&T will line split with other CLECs.
  
9. Has AT&T installed any DSLAMs or purchased any DSLAMs in Virginia? If yes, indicate the number of DSLAMs installed or purchased.
  
10. Has AT&T installed or purchased any splitters in Virginia? If yes, indicate the number of splitters installed or purchased.
  
11. Has AT&T purchased any line sharing UNEs from Verizon in Virginia? If so, how many?
  
24. How many orders for digital subscriber lines of any type (DSL, xDSL, ADSL and so forth) ("DSL") services has AT&T received in Verizon Virginia's service territory? If AT&T's records do not provide for this information on an ILEC-specific basis, please provide the response on a Virginia statewide basis or, if not in that form, then on any other basis that includes Virginia information.
  
25. How many DSL customers does AT&T currently serve in Verizon Virginia's service territory? If AT&T's records do not provide for this information on an ILEC-specific basis, please provide the response on a Virginia statewide basis or, if not in that form, then on any other basis that includes Virginia information.
  
26. How many DSL customers did AT&T serve in Verizon Virginia's service territory at the end of each calendar year, 1997, 1998, 1999 and 2000. If AT&T's records do not provide for this information on an ILEC-specific basis, please provide the response on a Virginia statewide basis or, if not in that form, then on any other basis that includes Virginia information.
  
27. How many orders for residential or commercial "voice" access lines hereinafter has AT&T received in Verizon Virginia's service territory? If AT&T's records do not provide for this information on an ILEC-specific basis, please provide the response on a Virginia statewide basis or, if not in that form, then on any other basis that includes Virginia information.

28. How many voice service access lines does AT&T currently serve in Verizon Virginia's service territory? Please break down these voice services between those provided through UNEs and those provided through resale. If AT&T's records do not provide for this information on an ILEC-specific basis, please provide the response on a Virginia statewide basis or, if not in that form, then on any other basis that includes Virginia information.
29. How many voice services customers did AT&T serve in Verizon Virginia's service territory at the end of each calendar year, 1997, 1998, 1999, and 2000. Please break down these voice services between those provided through UNEs and those provided through resale. If AT&T's records do not provide for this information on an ILEC-specific basis, please provide the response on a Virginia statewide basis or, if not in that form, then on any other basis that includes Virginia information.

Verizon has a current obligation to provide non-discriminatory and commercially reasonable access to line sharing and line splitting. In addition, consistent with the Commission's prior rulings, AT&T has shown that Verizon should be required to provide access to the NGDLC architecture used to carry such advanced services on non-discriminatory and commercially reasonable rates, terms, and conditions. Verizon must establish an interconnection agreement that complies with these obligations regardless of whether AT&T, or any other CLEC, *currently* has deployed advanced services equipment or currently provides advanced services to end users. The very purpose of the agreement being arbitrated here is to establish the parties' obligations on these important matters for the next *several years*. As a result, Verizon's data requests to AT&T are irrelevant to this proceeding. Nevertheless, AT&T has provided substantive responses to these questions within the Commission-established deadline. Verizon should be required to do the same.

AT&T will now address each of the data requests regarding the deployment of advanced services equipment and the provision of advanced services in turn.<sup>16</sup>

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<sup>16</sup> On July 12, 2001, Verizon provided a supplemental response to AT&T's Data Request 1-16. In light of that response, albeit an incomplete one, AT&T has removed that request from this motion.

**AT&T 1-2** Please state, by quarter (from 3Q99 to the present), the number of loops used for retail DSL customers *[sic]* services provided by Verizon (or any Verizon affiliate) in Virginia. Please state your answers separately for former Bell Atlantic and former GTE entities.

**AT&T 1-2.a.** Please provide the percentage of xDSL (including 2 wire ADSL and 4 wire HDSL) loops for which CLECs requested manual loop qualification during the past 6 months and any support used to develop this response.

**AT&T 1-2.b.** Please indicate the number of xDSL loops provisioned in the last 6 months that had cooperative testing between Verizon Virginia, Inc. and CLECs other than a Verizon division or affiliate. Please provide the absolute number of, and percentage of xDSL loops (including 2 wire ADSL and 4 wire HDSL) that CLECs requested cooperative testing which had a trouble report filed within 30 days of provisioning.

OBJECTION:

See General Objections

VZ REPLY:

Subject to its previously filed Objections and without waiver of same, Verizon Virginia states that it does not provide DSL services.

GROUND FOR MOTION TO COMPEL:

As noted in Section II, above, Verizon provides DSL services in Virginia through its separate data affiliates VADI and VADVA. Given Verizon's own request to re-integrate its data affiliates into its ILEC entity, Verizon should be required to respond to this request in full.

SUPPLEMENTAL COMMENTS REGARDING RELEVANCE:

The number of xDSL loops Verizon has deployed throughout its footprint will inform AT&T and the Commission as to the size of the DSL market. This is necessary to be able to quantify the scope of the market in order and understand their impact on the network architecture issues, including, for example, Issues V-6 and III-10.

Information regarding the size of the DSL market within Virginia and throughout Verizon's footprint is particularly relevant given the rapid expansion of the DSL market.

Verizon's CEO Ivan Seidenberg himself has acknowledged the growing importance of offering line sharing of both voice and xDSL services to end users. Specifically, Mr. Seidenberg stated that Verizon had 150,000 DSL subscribers as of 3/31/00 and 720,000 DSL subscribers as of 3/31/01. Significantly, he stated that Verizon would be targeting between 1.2 and 1.3 million DSL subscribers by the end of 2001.<sup>17</sup> With the number of Verizon's (or VADI's) DSL subscribers increasing so quickly in Virginia and throughout its footprint, information regarding Verizon's efforts in Virginia and throughout the footprint will highlight the critical importance of non-discriminatory access to advanced services equipment on commercially reasonable rates, terms and conditions. Without full and complete answers regarding Verizon's practices and procedures in Virginia and throughout its footprint, neither AT&T nor this Commission can fully determine the propriety of Verizon's practices within Virginia.<sup>18</sup>

Verizon also acknowledges the relevance of requests for information regarding the number of DSL loops, for it asked for similar information from AT&T. *See Verizon Data Requests 2-24 – 2-26 to AT&T, supra.*

The request for manual loop qualification data, if answered completely, will provide an understanding of the extent to which CLECs will be required to

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<sup>17</sup> Presentation of Ivan Seidenberg at the Sanford C. Bernstein Strategic Decisions Conference, June 6, 2001. A copy of the slide presentation can be found at <http://investor.verizon.com/news/index.html>.

<sup>18</sup> In its Opposition to AT&T's Motion to Compel, Verizon cited to the decision of a VA SCC Hearing Examiner recommending that evidence of Verizon practices in other jurisdictions be excluded during the hearings regarding the merger of GTE and Bell Atlantic. This Hearing Examiner ruling is inapposite. During the merger hearings, the focus was on whether the merger would harm competition in Virginia. Here, the focus is broader. The question here is what are the non-discriminatory, forward-looking rates terms and conditions to which the Petitioners are entitled under the Telecommunications Act of 1996. Given the different focus of the two proceedings, the VA SCC Hearing Examiner's ruling is not controlling.

submit manual loop qualifications and engineering queries. This understanding is critical to the consideration and resolution of Issue III-10.

As AT&T stated in Issue III-10, Verizon must provide AT&T with automated access to all loop qualification data that is automated in Verizon's systems. It is important to know the extent to which such information is automated and the extent to which it will be automated in the future. Moreover, the availability of such information affects AT&T's ability to develop marketing plans, because manual processes are much more cumbersome, costly and error prone than automated systems.

Similarly, AT&T's request for information as to cooperative testing will demonstrate the extent to which CLECs, as opposed to Verizon or its affiliates, need cooperative testing. If CLECs are requesting cooperative testing often, it might suggest that Verizon is not providing line sharing and line splitting on non-discriminatory and commercially reasonable terms.

**AT&T 1-8. Please state, by quarter (from 3Q99 to the present), the number and percentage of Verizon central offices in Virginia in which Verizon (or any Verizon affiliate) has deployed advanced services equipment, including but not limited to DSLAMs and splitters.**

VZ OBJECTION:

See General Objections.

VZ REPLY:

Subject to its previously filed objections and without waiver of same, Verizon Virginia neither owns nor deploys advanced services equipment.

GROUND FOR MOTION TO COMPEL:

As noted in Section II, above, Verizon deploys advanced services equipment in Virginia through its separate data affiliates VADI and VADVA. Given Verizon's own request to re-integrate its data affiliates into its ILEC entity, Verizon should be required to respond to this request in full.

SUPPLEMENTAL COMMENTS REGARDING RELEVANCE:

AT&T has requested the number and percentage of Verizon central offices in which Verizon (or any Verizon affiliate) has deployed advanced services equipment, including but not limited to DSLAMs and splitters. Verizon also acknowledges the relevance of this request, for it asked for similar information from AT&T. *See* Verizon Data Requests 2-9 and 2-10 to AT&T, *supra*. Finally, this request seeks relevant information regarding the size of this market today, information which will highlight the significance of Verizon's decisions on network architecture implementation and of the Commission's decisions on such issues here, including, for example, Issues V-6 and III-10. *See* Supplemental Comments Regarding Relevance For AT&T 1-2.

**AT&T 1-17. Please state whether Verizon asserts that the DSLAMs it or its affiliates have employed integrated splitters. If so, state whether the sole basis for this contention is that such arrangements use connectorized cables to connect splitters located in one part of a frame to DSLAM functionality located in a separate part of the frame. If there are additional bases for this contention, describe the nature of the integration that exists and provide technical literature from the supplier that describes the equipment employed.**

VZ OBJECTIONS:

See General Objections

VZ REPLY:

Subject to its previously filed Objections and without waiver of same, Verizon Virginia states that it neither owns nor deploys DSLAMs.

GROUNDS FOR MOTION TO COMPEL:

Although not specifically stated, Verizon presumably objects to this request because it requests information regarding the deployment of advanced services equipment. As demonstrated in Sections II, above, this objection is without merit.

SUPPLEMENTAL COMMENTS REGARDING RELEVANCE:

In its Answer, Verizon gives the impression that integrated splitters are inseparable units. *See* Exhibit A to Verizon Answer, Issue III-10, at 89. Verizon is almost certainly unwilling to answer this request because, if Verizon acknowledges that it does not have truly integrated splitters, it will have to allow CLECs non-discriminatory and commercially reasonable access to its own splitters. With that in mind, the equipment in question might consist of a seven foot rack composed of separate splitter shelves and DSLAM electronics, with a connectorized cable (a standard cable with plug-in connectors at each end) that connects the DSLAM with the splitters. If the splitters employed by VADI are physically inseparable from the DSLAM electronics, then Verizon cannot allow access to its splitters and would have to deploy splitters for CLEC use. If, however, Verizon's definition of "integrated" is as described in the preceding equipment configuration, then the splitter and DSLAM functionality are separable.<sup>19</sup> A response to this request will educate AT&T and this Commission as to how Verizon can and should be required to comply with its obligation to provide non-discriminatory access to its advanced services equipment. Verizon has also acknowledged the relevance of this request in asking a similar request of AT&T. *See* Verizon Data Request 2-10 to AT&T, *supra*.

**AT&T 1-18. Under what contract(s), tariff(s) or other arrangement(s) may a competitive LEC purchase Verizon advanced services for resale?**

VZ OBJECTIONS:

See General Objections

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<sup>19</sup> This configuration can also be provided by using longer cables to enable others to connect ILEC splitters to the CLEC DSLAMs.

VZ REPLY:

Subject to its previously filed Objections and without waiver of same, Verizon Virginia states that it does not provide advanced services.

GROUNDNS FOR MOTION TO COMPEL:

Although not specifically stated, Verizon presumably objects to this request because it requests information regarding the deployment of advanced services equipment. As demonstrated in Sections II, above, this objection is without merit.

SUPPLEMENTAL COMMENTS REGARDING RELEVANCE:

This request is plainly relevant to Issue V-9 (Under what terms and conditions must Verizon and its data affiliate or their successors or assigns allow AT&T to purchase advanced services for resale?). *See* the discussion at 8-9 above.

**AT&T 1-19. Separately state, for each of the following service delivery configurations that may be used for voice service, how a competitive LEC may add a resold Verizon advanced service to the high frequency spectrum of the same loop employed to provide the voice service: (a) UNE-P; (b) UNE Loop; (c) resale of Verizon local service?**

**AT&T 1-19.a For any service configuration for which Verizon states that a CLEC may add a resold Verizon advanced service to the high frequency spectrum of the loop, describe the procedures that the CLEC must follow to place such orders and when and how the procedures were first made available.**

**AT&T 1-19.b For any service configuration for which Verizon states that the CLEC may not add a resold Verizon advanced service to the high frequency spectrum of the loop, please state if Verizon contends that adding the capability is technically infeasible and, if so, explain why. If Verizon makes no assertion of technical infeasibility, please explain why Verizon does not make such configuration available.**

VZ OBJECTION:

See General Objections.

VZ REPLY:

Subject to its previously filed Objections and without waiver of same, Verizon Virginia states that it does not provide advanced services.

GROUNDS FOR MOTION TO COMPEL:

Although not specifically stated, Verizon presumably objects to this request because it requests information regarding the deployment of advanced services equipment. As demonstrated in Sections II, above, this objection is without merit.

SUPPLEMENTAL COMMENTS REGARDING RELEVANCE:

As shown above, Verizon is obliged to provide DSL service for resale. This question merely asks for information on how Verizon proposes to implement such capabilities from a technical perspective and seeks to elicit any technical information that Verizon may seek to offer regarding technical feasibility for each of the three service options that are described. These are clearly relevant to the terms and conditions under which Verizon would offer DSL for resale.

**AT&T 1-20. Has Verizon considered deploying or actually deployed a next generation digital loop carrier (NGDLC) architecture [footnote omitted] in Virginia? If any planning has occurred, provide any documents that draw conclusions or make recommendations regarding whether or not Verizon should move forward with such deployment and the implications of making the deploying including, but not limited to, the opportunity to reduce operating cost, future capital investment and/or increased revenue potential. To the extent that it is not apparent in the foregoing documentation, identify the equipment supplier(s) and equipment model(s) that were considered in the evaluation, particularly with respect to any electronics that might have been considered for deployment in remote terminals. If Verizon has deployed NGDLC loops anywhere in Virginia, please identify the number of customer distribution facility pairs connected to this architecture, the number of remote terminals (“RTs”) containing equipment with the enabling electronics and the number of different central offices to which these RTs are connected.**

VZ OBJECTION:

See General Objections. Verizon further objects to this Request on the grounds that the phrase “Has Verizon considered” renders this Request vague and unanswerable. Moreover, Verizon objects to this Request on the grounds that AT&T’s suggested definition of “NGDLC” (see AT&T’s First Set of Data Requests at 11-12, footnotes 2 and 3) is overly broad and vague.

**AT&T 1-20.a. Please provide all network planning documents, whether in “draft” or in final form, which relate in any way to the provision of DSL services to customers being served by loops constructed of fiber optic cable and/or digital loop carrier.**

VZ OBJECTION:

See Verizon’s Objection to Request No. 20.

VZ RESPONSE:

Subject to its previously filed Objections and without waiver of same, Verizon Virginia responds as follows:

Based on AT&T’s definition of next generation digital loop carrier (NGDLC) architecture which Verizon understands to be defined so broadly as to include “any combination of equipment and transmission facilities, where some or all of the electronics necessary to support high speed data and voice communications over a single copper distribution facility connecting to the customer’s premises are deployed in a location between the service central office and the customer’s premises[,]” and which Verizon interprets as including the electronics and facilities required to support integrated voice and high speed data over a single copper pair, Verizon Virginia has not deployed NGDLC loops of this type and cannot identify any number of connected distribution pairs or quantity of remote terminals (RTs) and central offices equipped with enabling electronics for integrated voice/data operation.

For new NGDLC deployments triggered by POTS service requirements, Verizon has recently developed guidelines to allow the pre-configuration and pre-cabling of remote terminals for a potential offering of a wholesale DSL at the RT service in the future. These guidelines were included in “Litespan-2000 Application Guidelines” issued in November 2000.

- (a) A list of documents related to pre-configuration of remote terminals for a potential wholesale DSL at the RT future offering is referenced above.

GROUND FOR MOTION TO COMPEL

Verizon’s response indicates that it does not currently provide NGDLC loops “of this type.” To the extent, however, that Verizon does currently use NGDLC loops to provide voice service, Verizon should be compelled to reply to this question more completely. It is a simple matter to reconfigure NGDLC loops used for voice to also provide advanced services through a change in plug-in circuit boards. Verizon should not be permitted to hide behind its current services which are apparently limited to voice. Verizon should be required to answer this question fully and provide a complete response regarding its NGDLC network architecture and deployment plans. Moreover, AT&T is entitled to information about Verizon’s plans for implementing NGDLC technology because such

technology will be in place during the term of the agreement being arbitrated. AT&T should not be forced to wait until Verizon implements its plans (likely in a discriminatory manner) before it may be the subject of an arbitration award.

VZ AMENDED REPLY PROVIDED JULY 12, 2001

Subject to its previously filed Objections and without waiver of same, Verizon Virginia responds as follows:

In answering this question, Verizon Virginia interprets AT&T's use of the term "NGDLC" to mean any new DLC product released since SLC series 5.

Anything that Verizon Virginia installed prior to the most current version of the Alcatel Litespan (see the November 2000 Litespan Application Guidelines, produced earlier) was generally deployed and configured to support POTS narrowband services only. Even the current version of Litespan is not configured to support combined data and voice on a single copper loop.

Verizon Virginia has given consideration to reposition the loops to accommodate the additional electronics, power, environmental components and space that would be required by this type of service, when and if Verizon Virginia were able to (and chose to) provision digital service.

The Virginia locations originally considered for this type of installation were included in the list of RT locations published as part of the March 21, 2001 PARTS workshop, which can be found at [http://128.11.40.241/east/wholesale/industry\\_con\\_education/master.htm](http://128.11.40.241/east/wholesale/industry_con_education/master.htm). This website is currently being revised to reflect a decrease in number of locations, based on a reduction in the forecasts for narrowband service, which is still the sole driver for the deployment of the Alcatel Litespan equipment.

- (a) See website identified above.

SUPPLEMENTAL COMMENTS REGARDING RELEVANCE:

Despite Verizon's initial objection, Verizon conceded the relevance of this request and the merits of AT&T's Motion to Compel when it provided its initial response as well as its supplemental response. Moreover, Verizon further concedes the relevance of requests about NGDLC by asking AT&T a data request about NGDLC. See Verizon Data Request 2-5 to AT&T, *supra*.

Here, the problem is Verizon's continued non-responsive answers. In the Amended Reply, Verizon acknowledges that some form of examination occurred as to deployment of NGDLC. Nevertheless, Verizon provides no information or documentation as to how those conclusions were reached. Verizon, instead, directs AT&T to a website related to Project PARTS which identifies the VA remote terminal locations which were considered and claims that website contains the information regarding the planning for deployment. It does not.<sup>20</sup> This website does not show network implementation plans. It shows only a list of all Verizon-owned DLC sites with DLCs for which VZ is spending local repair money to install.<sup>21</sup> While this information may provide some idea as to Verizon's deployment, it does not capture Verizon's implementation plans for NGDLC architecture. It is only the tip of the iceberg. This website shows the results of a portion of Verizon's network planning and implementation process. It does not provide any network planning information or documents identifying how these network implementation results were reached nor does it address aspects of network implementation other than DLCs at remote terminals. Verizon's amended reply, while better than the initial reply, remains incomplete.

**AT&T 1-22. To the extent that Verizon has considered or actually deployed NGDLC loops: (a) what is the electrical length of the 2 wire loops that would otherwise service the customer premises (if deployed); (b) what is the assumed electrical length of the 2 wire loops that are targeted to have an alternative NGDLC loop architecture available; (c) what is the length of the copper distribution for customers using the NGDLC loop architecture (if deployed); and (d) what is the length of the copper distribution that Verizon assumed within its planning process?**

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<sup>20</sup> The website address which Verizon provided does not work. However, AT&T did locate information similar to that described at the following web address:

[http://128.11.40.241/east/wholesale/industry\\_conf\\_education/planned\\_ngdlc\\_rts\\_view.xls](http://128.11.40.241/east/wholesale/industry_conf_education/planned_ngdlc_rts_view.xls)

<sup>21</sup> In its Amended Reply, Verizon claims that only narrowband forecasts drive implementation of these new and overlay DLCs. Regardless, these DLCs have the capability to provide both voice and xDSL service and, once Verizon is permitted to re-integrate VADI/VADVA, Verizon will be able to easily use this equipment to provide both voice and xDSL services to end users.

VZ OBJECTION:

See Verizon's Objection to Request No. 20.

VZ REPLY:

See Verizon's Reply to AT&T 1-20.

GROUND FOR MOTION TO COMPEL:

Although not specifically stated, Verizon presumably objects to this request for two reasons: (1) it requests information regarding Verizon's practices outside of Virginia and (2) it requests information regarding the deployment of advanced services equipment. As demonstrated in Sections I and II, above, these objections are without merit.

SUPPLEMENTAL COMMENTS REGARDING RELEVANCE:

Verizon's next-generation loop architecture provides Verizon and its affiliates with an efficient and technically feasible means of allowing both voice and data services to be carried over the same loop. It is technically feasible to enable all carriers access to such equipment so that consumers may benefit from competition for advanced services. The lengths of the various fiber and copper facilities that connect with the NGDLC architecture directly impacts the ability of AT&T and other CLECs to provide the various types of xDSL services. *See* Issue V-6. In fact, if the copper segment on NGDLC loops is significantly shorter than the alternative home run copper loops (that Verizon identifies as an alternative), the quality of the DSL service (as measured by information throughput) will be substantially lower than that possible using Verizon NGDLC. Indeed, if Verizon only deploys NGDLC loop for copper loops of very long length (e.g., longer than 18 kft), the competitor would not be able to practically provide any competing service. Contrary to Verizon's response, Verizon's initial and amended replies to AT&T 1-20 do not provide the information requested here. Unless Verizon is required to respond to AT&T's discovery requests about its current deployment and

future plans for NGDLC and the loop lengths, neither AT&T nor the Commission will be able to determine whether the interconnection agreement being arbitrated here will permit AT&T (and other CLECs) nondiscriminatory access to Verizon's network elements at commercially reasonable rates, terms, and conditions.

**AT&T 1-23. If not provided in the response to the preceding, please provide a complete description of the equipment that will be deployed (including manufacturer-provided specification sheet), the facilities that will be employed and the manner in which the facilities and equipment will be interconnected to provide a communications path between the customer's premises and the central office. This description should include but not be limited to the following:**

VZ OBJECTION:

See Verizon's Objection to Request No. 20.

**(a) Between the RT and the central office, does Verizon plan to commingle communications using the low frequency spectrum of a customer's "loop" on the same feeder facilities as those carrying communications using the high frequency spectrum of a customer's loop? If not, will the customer's communications be connected to one and only one central office to gain access to Verizon's circuit switched network and to one and only one central office to gain access to Verizon's high speed data network? If so, the two facilities from the RT terminate on the same central office? If not, why not?**

VZ OBJECTION:

See Verizon's Objection to Request No. 20.

**(b) If such commingling is not currently planned, does Verizon believe that it is technically feasible or infeasible for a single feeder facility to commingle the high and low frequency traffic and does Verizon's chosen/planned equipment supplier take the same position?**

VZ OBJECTION:

See Verizon's Objection to Request No. 20.

**(c) What bandwidth capacity has Verizon considered for deployment or actually deployed for the fiber feeder facility that connects the RT to the central office? Does Verizon believe that it is technically feasible to expand the bandwidth capacity of such feeder facilities? If so, what capacities does**

**Verizon believe can be achieved through upgrade/modification to deployed electronics?**

VZ OBJECTION:

See Verizon's Objection to Request No. 20.

**(d) Does Verizon believe that it is feasible to engineer the capacity of feeder facilities so that multiple carriers can have nondiscriminatory access to the capacity in those facilities? If so, on what does Verizon base this assertion?**

VZ OBJECTION:

See Verizon's Objection to Request No. 20.

**(e) Other than by connecting at the central office, the RT or at the customer premises, is there any other technically feasible point that Verizon contends a competitor could gain access to the communications of its own retail customers without also gaining access to communications destined to the network(s) of other service providers? If so, identify all such point and describe how the carrier would make such a connection.**

VZ OBJECTION:

See Verizon's Objection to Request No. 20.

**(f) Under Verizon's current planning assumptions for the NGDLC loop architecture, how would a Verizon retail customer served over that architecture be physically connected to an Internet Service Provider?**

VZ OBJECTION:

See Verizon's Objection to Request No. 20.

VZ REPLY:

See Verizon's Reply to AT&T 1-20.

GROUNDS FOR MOTION TO COMPEL:

Although not specifically stated, Verizon presumably objects to this request for two reasons: (1) it requests information regarding Verizon's practices outside of Virginia and (2) it requests information regarding the deployment of advanced services equipment. As demonstrated in Sections I and II, above, these objections are without merit.

SUPPLEMENTAL COMMENTS REGARDING RELEVANCE:

See Supplemental Comments Regarding AT&T I-20 and AT&T I-22.