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July 13, 2001

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Magalie R. Salas
Secretary
Federal Communications Commission
445 12th Street, SW, Room 1-A835
Washington, D.C. 20554

RE: *WorldCom, Cox, and AT&T v. Verizon*
CC Docket Nos. 00-218, 00-249, and 00-251

Dear Ms. Salas:

In the July 11 Letter to Counsel in the above-referenced proceeding, the Commission raised the question whether Verizon Virginia Inc. ("Verizon") understood that pricing issues related to (1) the resale discount and (2) reciprocal compensation, both of which were addressed in Verizon's cost studies, were included as issues to be decided by the Commission in these proceedings. As explained below, it has been Verizon's understanding that these issues were raised by the petitioners and included in these proceedings, and we were not aware until the status conference that either AT&T or WorldCom believed otherwise.

Resale Discount. The resale discount issue was expressly raised by WorldCom in Issue IV-36 "Itemized Charges." With that issue, WorldCom proposed a "Detailed Schedule Of Itemized Charges" that included the resale discount, with or without use of Verizon's operator services platform. (See, e.g., "Resale of Retail Telecommunications," charges 15.b and 15.b).¹ For this reason, Verizon understood the joint WorldCom/ATT issue concerning the prices for unbundled networks and "interconnection," see, e.g., JDPLI (UNE Pricing), Issue II-1-d, to include the rates for resale, which obviously is a component of the parties' "interconnection" agreement. Indeed, as Verizon indicated in its answer to Issue IV-36, "[t]he rates and elements that should be included in Pricing Schedule will be established in the cost and pricing portion of this arbitration (Issues II-1 and II-2)." Accordingly, in the cost studies filed on July 2, Verizon included a calculation of the retail avoided discount percentages for resale of Verizon's services. Verizon did

¹ WorldCom also raised the resale issue in its Petition in issue IV-30, concerning the principles that would apply for the resale discount.

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not understand that there was a need to separately identify the issue of the resale discount in its supplemental issues list since the Petitioners raised the issue in their Petitions.²

Had Verizon not understood that WorldCom had already expressly raised the resale discount in its Petition, there is no question that Verizon would have done so in its list of Supplemental Issues. Failure to establish a new discount rate would require application of a Virginia-mandated discount rate that does not reflect the 8th Circuit's decision on avoided versus "avoidable" costs. *Compare Application of AT&T Communications of Virginia, et al.*, Nos. PUC 960100, PUC060104, PUC960113, at 3 (Va. SCC Nov. 8, 1996) (finding that resale discount should be based on costs "that would be reasonably avoidable") *with Iowa Utils. Bd. v. FCC*, 219 F.3d 744, 755 (8th Cir. 2000) ("The plain meaning of the statute is that costs that are actually avoided, not those that could be or might be avoided, should be excluded from the wholesale rates. If the Congress had meant the standard to be one of reasonable avoidability, it could have easily said so.").

Although Verizon might have been willing to accept the application of the Virginia mandated rate in the absence of the FCC's review of all costs at issue in this case, *see* Response of Verizon Virginia Inc. to Prefiling Memorandum, at 5-7 (March 21, 2001), once the decision was made to include a review of the company's costs in these proceedings, it would have been nonsensical to exclude the resale discount and subject Verizon to a rate that does not comply with the current state of the law. Nor, given this result, would it be fair to penalize Verizon for failing to perceive that resale would for some reason be excluded from "interconnection" rates, given that resale is clearly a component of the proposed interconnection agreements at issue in these proceedings.

Intercarrier Compensation. Verizon also included the costs for "reciprocal compensation" in its cost studies, reflecting the costs of transport and termination of local traffic. There is no question that reciprocal compensation is a key cost of interconnection between two local carriers; transport and termination costs are regularly included in UNE cost proceedings. As noted above, WorldCom and AT&T specifically put all interconnection costs at issue in their petitions. *See, e.g.*, JDPLI (UNE Pricing), Issue II-1-d.³

² Moreover, in calculating UNE rates, it is necessary to account for and remove retail avoided costs, and thus the appropriate discount must be arbitrated in these proceedings. Since the Commission clearly must address this issue, it would make no sense to agree on a discount in the context of UNE rates and then not apply it with respect to the rates for resale.

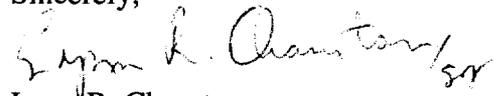
³ *See also, e.g.*, Proposed Interconnection Agreement submitted by AT&T, § 5.7, referencing Exhibit A with respect to rates to be determined for reciprocal compensation. In addition, AT&T has proposed a cost for transport and termination in this proceeding. *See* Workbook file VA_C And P Tel Co Of VA__VA Direct Filing_DZ.xls. *See also, e.g.*, reciprocal compensation termination charge 14.a in WorldCom's Detailed Schedule of Itemized Charges.

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Again, there would have been no reason for Verizon to separately list this cost issue given that all interconnection costs were put at issue by the petitioners.

To the extent there is or was any ambiguity as to the specific cost issues Verizon assumed were in these proceedings, Verizon hereby requests the same opportunity to clarify the issues in this proceeding that both AT&T and WorldCom have been provided in connection with the issues raised in Verizon's June 27 Motion to Dismiss and its July 9 letter to the staff. Any other result would be grossly unfair, and would penalize Verizon for relying on the vague wording of petitioners' issues, while rewarding petitioners for the same shortcoming by providing them with a second bite at the apple.

Sincerely,



Lynn R. Charytan
Catherine Kane Ronis

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