



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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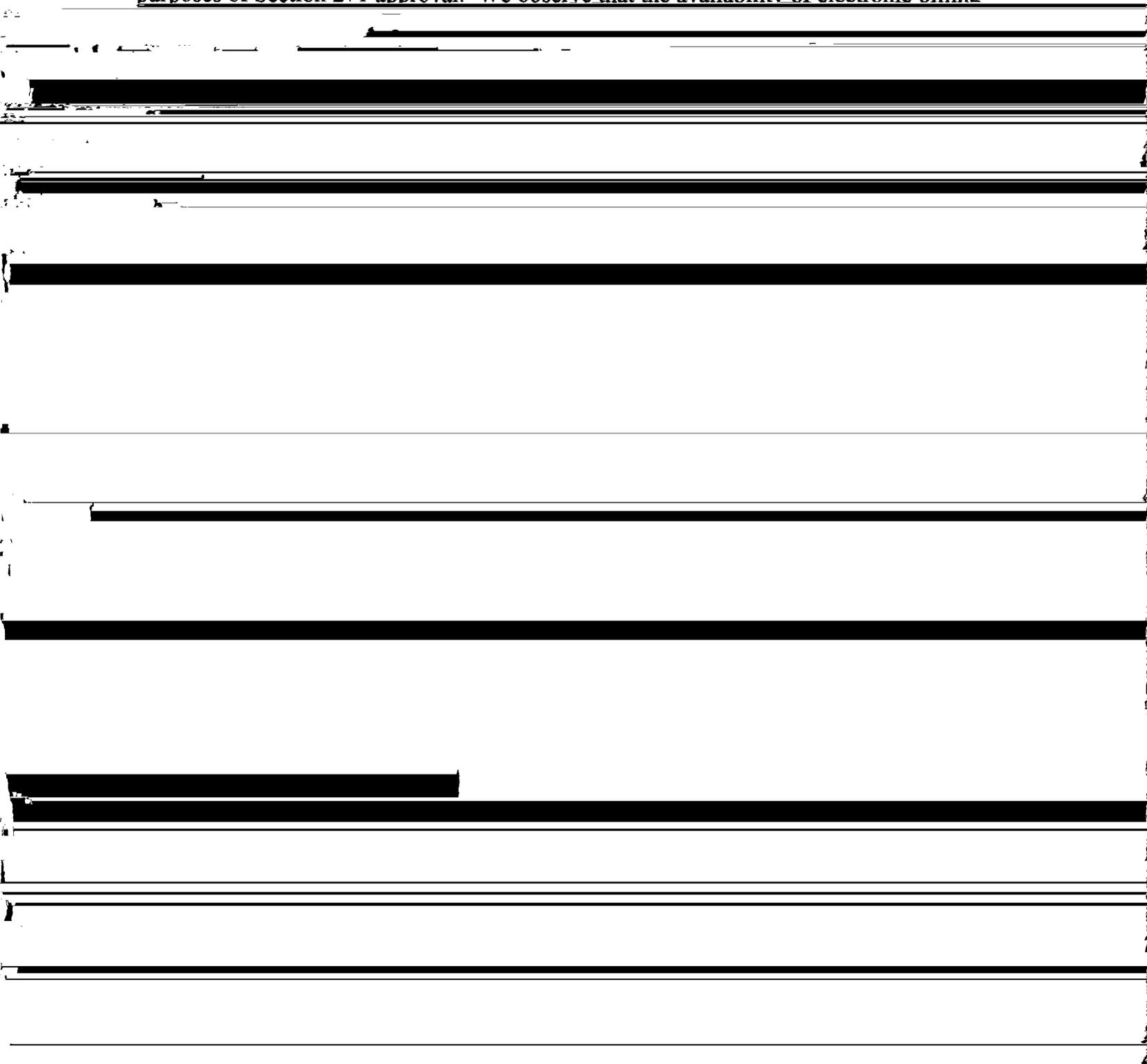
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Attachment 1: Letter dated July 18, 2001 from Julia A. Conover,
 Vice President and General Counsel of Verizon PA

Attachment 2: Letter dated August 6, 2001 from Julia A. Conover,
 Vice President and General Counsel of Verizon PA

A. Verizon's Wholesale Bills Are Timely And Accurate And Available Electronically

The billing issues raised before the PAPUC have been adequately resolved for purposes of Section 271 approval. We observe that the availability of electronic billing



We credited Verizon's assertions that the problems with the e-billing accuracy had been or would be addressed upon implementation of the scheduled modifications in June. We are satisfied with Verizon's assertions that the company's e-billing product balances internally and matches the paper bill, assertions attested to by an independent third party, Pricewaterhouse Coopers. Vz PA Application, App. A, Vol 2, Tab. C, paras. 6, 8 (Dec. of Bluvol/Kumar). Our reliance in this regard is based not only on the credibility of Verizon's assertions, but also on the enhanced penalties that we have implemented to incent Verizon to make sure the fixes work. PAPUC Consultative Rep. at 103. Waiting until October 2001 to get further evidentiary support for a Section 271 application would not have been, in our judgment, appropriate under the circumstances.¹

Our billing metrics and remedies are designed to detect and incent non-discriminatory performance. Recently, additional measurements to measure the timeliness and accuracy of the wholesale electronic bills were instituted as a result of our process and became effective in July 2001. Letter of Julia A. Conover (Verizon PA) to James J. McNulty (PAPUC) dated July 18, 2001 filed at PAPUC Docket No. P-00991643 (Attachment 1). Originally, sub-metric BI-2-01 measured the timeliness of the CRIS and CABS paper bill. BI-2-02 has been added to measure the timeliness of the e-bill (BOS format). Similarly, metric BI-3 has been modified to reflect the accuracy of the e-bill as

The remedies plan has been modified appropriately, including heightened self-executing remedies for performance on the e-billing aspects of metrics BI-2 and BI-3. For these two metrics, when the e-bill is chosen as the "bill of record," Verizon is now obligated to pay \$50,000 per metric per affected CLEC for violations up to 30 days, \$75,000 for violations up to 60 days, and \$100,000 for violations up to 90 days and thereafter. These so-called enhanced penalties are in addition to any penalties under OR-6 (Order Accuracy), and unlike other PAP remedies, they begin with the first month's miss.

The timeliness, accuracy and completeness of the paper bill were addressed by KPMG Consulting in the OSS Test. In its final test report submitted on December 22, 2000, KPMG Consulting was satisfied on all test points. PAPUC Consultative Rep. at 102; Vz PA Application, App. B, Vol 18b, Tab. F2 at 565 - 572 (KPMG Consult. Final

We recognize that Z-Tel has received wholesale bills from Verizon containing errors and that it was necessary for Verizon to make credit adjustments. We do not believe this is an ongoing problem. Since Z-Tel has elected to have the electronic bill be its bill of record, the heightened penalties in the amount of \$50,000 for one month's miss of the BI-3 metric measuring billing accuracy ensure that our confidence in Verizon is not misplaced. We further note that we expect Verizon to appropriately reflect billing adjustments in its Carrier-to-Carrier Reports issued for the month in which the adjustment was made. Vz PA Application, App. B, Vol 16, Tab C28 at 557-558 (4/27/01 *En Banc* Hearing Transcript).⁴

We do not suggest that Verizon is perfect or that its wholesale bills contain no errors. Undoubtedly, some errors exist both on the wholesale bills and on Verizon retail bills. Where errors occur, there are processes in place to correct them. In our judgment, the problems that may exist do not rise to the level of magnitude to prevent a positive outcome for Verizon PA's Section 271 application.

B. Pennsylvania's Performance Assurance Plan is Adequate

Developed originally in 1999,⁵ the Pennsylvania Performance Assurance Plan ("PAP") is adequate for Section 271 purposes. It has been modified incrementally over time based on our experience and inputs from Verizon and competitors. DSL metrics were introduced by order entered February 22, 2001. Tier II remedies increased by order

on the aspect of timeliness. See Bell Atlantic/GTE Merger Order, FCC 00-221 (June 16, 2000), at Appendix D, Attachment A-1a (listing performance measurements for monitoring and not including billing accuracy).

⁴ Unfortunately, the Z-Tel performance report for February, 2001, the month in which adjustments were made,

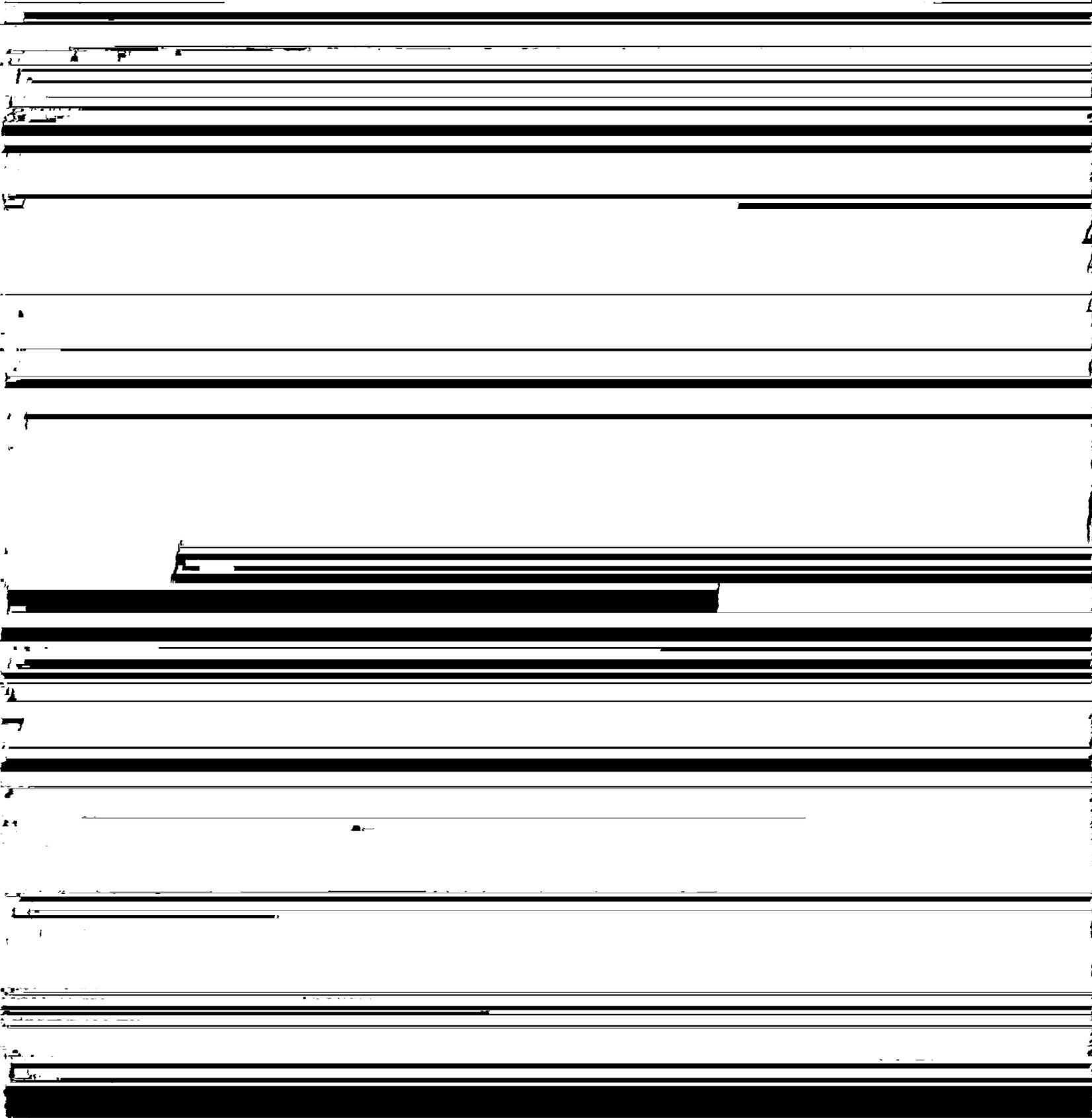
entered April 11, 2001. Ease of administration, equitable treatment to all competitors, and an uncapped liability exposure for Verizon are hallmark traits of the PAP.

The PAP has been challenged in the Commonwealth Court of Pennsylvania, but, as of this writing, it is challenged only by AT&T Communications of Pennsylvania, Inc. Appeals originally filed by Verizon and MCI WorldCom have been voluntarily withdrawn. Indeed, withdrawal of Verizon's then pending legal challenge to our statutory authority to impose self-executing remedies was one of the key conditions in the June 6, 2001 Secretarial Letter for the PAPUC to issue a favorable consultative report to the FCC.

We do not share AT&T's concern that Verizon remains free to challenge our authority to impose remedies for Verizon's performance failures. See Comments of AT&T Corp. (dated July 11, 2001 filed in CC Docket No. 01-138) at 64.⁶ In our opinion, Verizon is estopped from challenging our authority to impose remedies. By letter dated June 7, 2001, Verizon notified the PAPUC of its acceptance of the conditions in the June 6 letter, including the withdrawal of its legal challenge to self-executing remedies in the PAP. PAPUC Consultative Report, Appendix I (Secretarial Letter of June 6, 2001 as well as Verizon's Letter of June 7, 2001). Verizon's appeal was withdrawn subject to (and in full compliance with) the requirements set forth in our Secretarial Letter. Our positive recommendation was thereafter, and accordingly, issued. Having unconditionally accepted the terms of the June 6 Secretarial Letter, including withdrawal of the PAP appeal, "we do not expect Verizon PA to seek to undo these terms in any subsequent litigation." PAPUC Consultative Report at 268. Indeed, after successfully inducing the PAPUC to issue a positive recommendation based, in large measure, on its withdrawal of

⁶ AT&T also voiced this concern in letters to us dated June 12 and 14, 2001.

its PAP appeal, Verizon is not likely to maintain a claim, in a subsequent litigation after Section 271 approval is obtained, that the PAPUC lacks the statutory authority to impose



We also expect to address the merits of these matters in the course of our new PAP proceeding together with other issues presented.⁷

Presently, in the new PAP proceeding, the PAPUC is giving active consideration to proposals for new metrics submitted by Verizon and CLECs on July 16, 2001 as well as proposals for new remedies submitted by Verizon and CLECs on July 25, 2001. There is a rebuttable presumption that features of the New York remedies plan will be adopted, e.g., weighting of metrics and liability cap. We note that Verizon has expressed an intent to attempt to rebut the presumption. Comments on the proposals (metrics and remedies) are due August 6. Hearings are scheduled for August 14 – 16. Briefs are due September 4. ALJ Schnierle's recommended decision is due September 30, 2001. We contemplate issuing our final decision in December 2001.

We expect that the proceeding will result in an improvement to our existing PAP by adoption of features from the New York remedies plan that are appropriate for

[REDACTED]

[REDACTED]

change and mature. Our preference will be for a collaborative approach to such refinements.

The need for a form of metrics change management was also brought to our attention during our Section 271 process. PAPUC Consultative Rep. at 105-107; Vz PA Application, App. B, Vol 16, Tab C27 at 373-407 (4/26/01 *En Banc* Hearing Transcript). Rather than reinventing the wheel, Verizon had made a proposal to adopt a New York collaborative procedure, *id.* at 373-374, and AT&T sought a New Jersey procedure that was undergoing development, *id.* at 382. Ultimately, Verizon and AT&T compromised and agreed upon a metrics change management procedure based on New Jersey's "issues log." Vz PA Application, App. B, Vol 17, Tab D1, sub-tab 24 (Amended Response to *En Banc* Data Request No. 4). We applauded the compromise and accepted the procedure as adequate to support our favorable Section 271 recommendation with the understanding that we may modify or supplement or otherwise act to change this procedure should we find the need for a more open dialog for addressing metrics change management issues.

As the United States Department of Justice has recognized, local markets in Pennsylvania show a substantial amount of competitive entry. In our judgment, our existing PAP coupled with our other market opening incentives provides all that is currently necessary for competition to thrive.⁹ Accordingly, our ongoing review and modification of metrics and remedies in Pennsylvania is consistent with the existing PAP

C. Facial Disparities in Performance Data for Provisioning of Transport

There is no dispute that the performance data would appear to depict that there are problems with Verizon PA's provisioning of interoffice facilities to CLECs, however, we place little weight on this performance disparity. PAPUC Consultative Rep. at 170-172. We queried Verizon about the facial disparities to which Verizon responded. See Vz PA Application, App. B, Vol 17, Tab D1, sub-tab 27 (Amended Response to 05/23/01 Data Request Nos. 1, 2). We gave CLECs an opportunity to provide supporting data to demonstrate that Verizon provisions transport in a discriminatory manner. To the extent negative comments were received, no data was provided for comparison to the reported results. PAPUC Consultative Rep. at App. E at 15-20 (KPMG – Metrics Report). We also recognized that our sister states of New York and Massachusetts as well as the Federal Communications Commission had given credence to Verizon's position by approving a revised retail analog. Consultative Rep. at 171. Nothing suggested that the facial disparities, while existing, were severe or clearly attributable to matters within Verizon PA's control. In short, given the totality of the circumstances, we decided that the performance was adequate and provided a forum to address the questions of metrics and the retail analog. i.e., the new PAP proceeding.

Conclusion

In conclusion, the Pennsylvania Public Utility Commission should find that

ATTACHMENT 1

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July 18, 2001

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, Pa. 17120

Re: Performance Standards and Remedies - Docket No. P-00991643

Dear Secretary McNulty:

As you are aware, on June 6, 2001 the Pennsylvania Public Utility Commission ("Commission") issued its letter concerning the consultative report on Verizon Pennsylvania Inc.'s ("Verizon PA") Application to Provide In-Region InterLATA Services (Docket No. M-00001435) ("June 6 Letter"). In this letter, the Commission set forth certain conditions that Verizon PA must accept in order for the Commission to issue a favorable consultative report. Verizon PA has previously agreed to accept these conditions. The purpose of this letter is to memorialize Verizon PA's compliance with the Commission's conditions regarding those conditions that pertain to electronic billing and the Performance Assurance Plan ("PAP").

The Commission has set forth the following requirements for electronic billing (*see* June 6 Letter at 4):

1. *update, in consultation with staff, the Pennsylvania billing metrics applicable to the*

Commission Staff have agreed. Verizon PA will report results for these modified measurements starting with the July performance results (report to be delivered on August 27, 2001).

Verizon PA and Commission Staff have also jointly agreed that starting with the July 2001 performance results, Verizon PA will begin paying remedies for billing metrics BI-2-02 and BI-3-03 at the increased levels set out in the second requirement set out above, and that these increased billing remedies will remain in effect during the time frame set out in requirement three above.

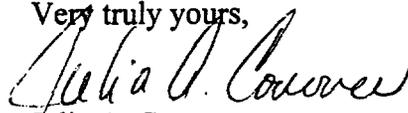
These new self-executing remedy levels will be detailed on the summary remedy report provided to the Commission. This report is normally available approximately 10 business days after Verizon PA files its monthly Carrier-to-Carrier reports. Verizon PA will also provide a CLEC-specific copy of this report directly to all CLECs who are paid remedies.

Verizon PA has previously informed CLECs through the Change Control Process that if a CLEC decides to make the electronic bill its bill of record, the CLEC should contact its Verizon Account Manager.

As you are also aware, one of the conditions of the Commission's decision in Docket No. M-00001353 that Verizon PA was required to accept is that beginning with July 1, 2001 performance, Tier II remedies payments for metrics that are missed beyond ninety (90) days shall be set at the amount of \$25,000 and shall be self-executing and applicable to all metrics. Verizon PA has agreed to this requirement. Starting with the July performance results, Verizon PA will abide by these increased remedies payments for all metrics currently contained in the PAP that are subject to Tier II remedies, with the exception of BI-2-02 and BI-3-03, which will be administered consistent with the requirements of the June 6 Letter.

Please contact me if you have any questions regarding this matter.

Very truly yours,



Julia A. Conover

Attachment

cc: Ms. Fink-Smith
Mr. Wagner
Judge Schnierle
Attached Certificate of Service

ATTACHMENT 2

Julia A. Conover
Vice President and General Counsel
Pennsylvania



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August 6, 2001

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: Performance Metrics And Remedies, Docket No. P-00991643

Dear Secretary McNulty:

Verizon Pennsylvania, Inc. ("Verizon PA") would like to inform the Commission of two errors it has discovered in Carrier to Carrier Reports previously filed with this Commission.

Verizon discovered that a credit Verizon issued to Z Tel in February 2001 for claims in

Julia A. Conover
August 6, 2001

Commission and Z-Tel (and any other affected CLECs) with the corrected metric information as soon as it has been recalculated.

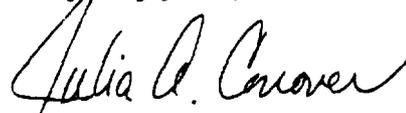
Second, during our investigation of Covad's claims in the 271 proceeding before the FCC, we discovered a Verizon system programming error that caused some standard interval orders to be excluded from the calculation of Verizon's DSL and line sharing measures. The affected orders were those orders that Verizon received after 5:00 p.m. The programming error treated these orders as having been received that day, rather than the following day. As a result, these orders were treated as having requested an interval one day longer than the standard interval, when in fact they had requested the standard interval. These orders were therefore excluded from the calculation of Verizon's performance under the interval measures. Additionally, we found that less than one percent of VADI line sharing orders were improperly counted as CLEC line sharing orders for the line sharing interval measures in the months of May and June. This error impacted only May and June performance because in May, Verizon adopted a new method to track line sharing performance, and the counting error was associated with migrating to that new method.

Verizon has recalculated its performance under the interval measures by including the orders that had been improperly excluded. That recalculation is attached hereto. In the majority of cases, Verizon's performance is comparable to or better than the performance that had been reported previously.

For example, in May, Verizon's recalculated performance for DSL under PR-2-02 is 5.81 days, rather than 5.82 days as previously reported on the Carrier-to-Carrier report. The number of observations, however, increased from 359 to 511. However, in some cases, where the number of observations was small, there was some change in the performance results.

These issues will also be included in the issues matrix that Verizon PA submits with its monthly Carrier To Carrier Reports. Please contact me if you have any questions about either of these matters.

Very truly yours,



Julia A. Conover

Cc: Bob Rosenthal
Maryanne Martin, Esq.
Attached Service List

Recalculation of Specific Performance Standards
Pennsylvania - January through June 2001

Complex Services - 2 Wire xDSL Line Sharing

PR 1-01-3343

Jan	VADI		2.72
	CLEC	39	2.92
Feb	VADI		2.49
	CLEC	63	2.80
Mar	VADI		3.01
	CLEC	45	4.72
Apr	VADI		3.83
	CLEC	36	3.14
May	VADI		3.02
	CLEC	81	3.11
Jun	VADI		3.01
	CLEC	125	4.56

Complex Services - 2 Wire xDSL Lines

PR 1-02-3342

Jan	VZ		
	CLEC	639	5.88
Feb	VZ		
	CLEC	483	5.81
Mar	VZ		
	CLEC	508	6.02
Apr	VZ		
	CLEC	640	5.85
May	VZ		
	CLEC	639	8.13
Jun	VZ		
	CLEC	440	6.04

PR 2-01-3343

Jan	VADI		3.54
	CLEC	38	7.81
Feb	VADI		3.15
	CLEC	75	4.16
Mar	VADI		2.92
	CLEC	31	8.85
Apr	VADI		3.35
	CLEC	26	4.18
May	VADI		2.90
	CLEC	63	2.90
Jun	VADI		2.97
	CLEC	107	3.10

PR 2-02-3342

Jan	VZ		
	CLEC	427	7.58
Feb	VZ		
	CLEC	355	6.03
Mar	VZ		
	CLEC	398	6.77
Apr	VZ		
	CLEC	687	5.53
May	VZ		
	CLEC	511	5.81
Jun	VZ		
	CLEC	333	6.70

PR 3-03-3343

Jan	VADI		89.81%
	CLEC	38	71.05%
Feb	VADI		87.85%
	CLEC	75	86.00%
Mar	VADI		87.25%
	CLEC	31	83.87%
Apr	VADI		82.60%
	CLEC	26	76.92%
May	VADI		98.76%
	CLEC	64	95.31%
Jun	VADI		98.51%
	CLEC	107	95.33%

PR 3-10-3342

Jan	VZ		
	CLEC	431	81.90%
Feb	VZ		
	CLEC	358	93.04%
Mar	VZ		
	CLEC	398	84.74%
Apr	VZ		
	CLEC	816	87.30%
May	VZ		
	CLEC	528	85.27%
Jun	VZ		
	CLEC	338	84.87%

PR 3-11-3342

Jan	VZ		
	CLEC	802	82.77%
Feb	VZ		
	CLEC	597	88.88%
Mar	VZ		
	CLEC	631	88.51%
Apr	VZ		
	CLEC	1110	99.85%
May	VZ		
	CLEC	653	87.00%
Jun	VZ		
	CLEC	694	97.88%