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?

Q. PLEASE SUMMARIZE YOUR TESTIMONY ON THE ISSUE OF VERIZON'S OBLIGATION TO MAKE RETAIL DSL SERVICES AVAILABLE FOR RESALE.

A. First, I will show that the Commission's *Connecticut 271 Order*[74] has resolved several key issues relating to Verizon's duty to make retail DSL services available for resale. In particular, that order rejected the arguments Verizon has raised here and held that (1) the plain language of the recent *ASCENT* decision[75] invalidates Verizon's claim that it need not make DSL available for resale unless Verizon is the underlying voice carrier; (2) that Verizon has improperly misapplied the Commission's Line sharing rules and (3) that Verizon may not hide behind the corporate shell of its (soon to be dissolved) advanced data services affiliate. Second, I will show that Verizon's obligation to make DSL services available for resale extends not only to carriers that resell Verizon's voice service but also to carriers that provide voice service using UNE-P.

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74 *Application of Verizon New York Inc., Verizon Long Distance, Verizon Enterprise Solutions, Verizon Global Networks Inc., and Verizon Select Services Inc., for Authorization to Provide In-Region, InterLATA Services in Connecticut*, Memorandum Opinion and Order, CC Docket No. 01-100 (rel. July 20, 2001) ("*Connecticut 271 Order*").

75 *Association of Communications Enterprises v. FCC*, 235 F.3d 662 (D.C. Cir. 2001) ("*ASCENT*").

Q. WHAT CONTRACT LANGUAGE HAS AT&T PROPOSED REGARDING THE RESALE OF DSL SERVICES?

A. Paragraph 12.1 of AT&T's proposed contract identifies a general obligation that Verizon will permit resale of "Telecommunications Services that it provides to its non-carrier customers." That section also adds clarifying language stating that:

> AT&T may purchase for resale any Advanced Services, including but not limited to any digital subscriber line service, offered by Verizon, or by Verizon affiliates, subsidiaries or other entities subject to § 251(c) of the Telecommunication Act of 1996, without any unreasonable or discriminatory limitation including, but not limited to limitations or restrictions that would require AT&T also to purchase other services from Verizon.

Q. DOES VERIZON OBJECT TO AT&T'S PROPOSED LANGUAGE?

A. Yes, although these objections were made prior to the release of the *Connecticut 271 Order* discussed above. Verizon objected to AT&T's proposed language on three grounds.[76] First, it asserted that the advanced services being addressed are offered by a different company. Second, it states that its data affiliate VADI (or VAD-VA) recently revised its tariffs to provide a resale discount to advanced services it offers to retail customers. Third, it claims that the issue of resale of advanced services at wholesale prices is beyond the scope of this arbitration.

Q. ARE ANY OF VERIZON'S ARGUMENTS VALID?

A. No, the Commission's decision in the *Connecticut 271 Order* and Verizon's own actions demonstrate that they are not.

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76 SSUI at 144.

Q. HOW DID THE CONNECTICUT 271 ORDER REJECT VERIZON'S ARGUMENTS HERE?

A. First, the *Connecticut 271 Order* flatly rejects Verizon's assertion that DSL services are "offered by a separate company." As the Commission held,

> The ASCENT decision made clear that Verizon's resale obligations extend to VADI, whether it continues to exist as a separate entity or whether it is integrated into Verizon, and regardless of the way Verizon structures VADI's access to the high frequency portion of the loop. Accordingly, we conclude that to the extent Verizon attempts to justify a restriction on resale of DSL turns on the existence of VADI as a separate corporate entity (or even a separate division), it is not consistent with the ASCENT decision.[77]

Moreover, the Commission rejected Verizon's claim "that it is not required to offer resale of DSL unless Verizon provides the underlying voice service on the line involved . . . based on the plain language of section 251(c)(4)."[78] The Commission also emphasized that "Verizon's policy of limiting resale of DSL services to situations where Verizon is the voice provider *severely hinders the ability of other carriers to compete*," and that permitting Verizon, but not its competitors, to provide both voice and DSL services to end users "is clearly contrary to the pro-competitive Congressional intent underlying

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77 *Connecticut 271 Order* ¶ 32.

78 The Commission also rejected Verizon's claim that "there is no DSL for VADI to resell when a competitive LEC provides voice service over the line involved," because it is "based on a misapplication of [the] Commission's line sharing rules. Line sharing is not a retail service; it is a UNE provided under section 251(c)(3). Therefore, the restriction on the line sharing UNE is inapplicable to Verizon's obligations relating to retail services." *Id.* ¶ 31.

1 section 251(c)(4)."[79] Accordingly, any legal objections Verizon raised
2 concerning its duty to provide DSL for resale to competitors who resell its voice
3 service have been flatly rejected.

4 **Q. HOW HAVE VERIZON'S ACTIONS ALSO INVALIDATED ITS**
5 **POSITION?**

6 **A.** As the Commission is aware, Verizon has also requested that it be permitted to
7 accelerate its right to re-absorb VADI into Verizon.[80] Given this request, Verizon
8 cannot reasonably insist that the legal duties of VADI on this issue must be dealt
9 with in a separate agreement. If VADI and Verizon are to be a single entity
10 within the next few months, (which may be less time than it takes to execute a
11 contract between Verizon Virginia and AT&T), Verizon should not be permitted
12 to object to AT&T's request that all of its corporate obligations regarding the
13 resale of DSL should be dealt with in a single interconnection agreement.
14 Moreover, regardless of whether VADI (or any other Verizon entity) has
15 addressed some of these issues in a tariff, AT&T is entitled to request (and
16 arbitrate if necessary) appropriate contract provisions to assure that it has a
17 contractual basis upon which to enforce Verizon's legal obligations. This is
18 especially true because tariffs are subject to change relatively easily compared to

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79 *Id.* (emphasis added). It should also be noted that this resale requirement provides incentives for CLEC investment, because it allows voice CLECs to focus on developing their underlying voice infrastructure rather than requiring that they engage in a parallel wholesale deployment of collocation and DSL technology. It also creates opportunities for innovation by allowing carriers to invest in differentiating features and capabilities consistent with their primary business strategy while filling product/feature voids through resale.

80 *See* FCC Public Notice DA 01-1325, released May 31, 2001, *Pleading Cycle Established for Comments on Verizon's May 1st Letter Concerning Relief From Bel Atlantic/GTE Merger Conditions,* CC Docket No. 98-184.

contract terms. Thus, there is no legitimate procedural basis that precludes AT&T from arbitrating this issue here.

Q. WHAT OTHER ISSUES SHOULD THE COMMISSION CONSIDER IN THIS CONTEXT?

A. Although the *Connecticut 271 Order* did not resolve Verizon's legal obligation under the *ASCENT* decision to permit resale of its DSL service when a CLEC uses a UNE-P or UNE-Loop architecture to provide voice service on the customer's loop, these issues are straightforward and should not stand in the way of requiring Verizon to accept contractual provisions that require it to allow resale of its DSL services in either case.

Q. WHY SHOULD VERIZON BE REQUIRED TO ALLOW RESALE OF ITS DSL SERVICES TO CARRIERS THAT PROVIDE VOICE SERVICE USING UNE-P?

A. For the simple reason that even Verizon itself admits that the physical arrangements that support UNE-P are *identical* to those that support resale. Verizon's July 12, 2001 response to AT&T's Data Request 3-30 correctly states:

> There are *no operational differences* between a retail service and a UNE-P combination service, when the combination is made by Verizon Virginia. They are provisioned and maintained using the same systems. (emphasis added).

From a technical perspective, of course, resale services are the same as Verizon "retail services." Verizon has already offered to make DSL resale available to CLECs in Connecticut and Pennsylvania for CLECs that resell Verizon's voice service.[81] Thus, there is no reason, technical or otherwise, why UNE-P carriers

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81 *See Connecticut 271 Order* ¶ 29; Verizon *ex parte* letter from Dee May to Magalie Roman Salas, dated July 9, 2001, Application of Verizon Pennsylvania, Inc., et al., for

1 should not be permitted to resell Verizon's retail DSL services, and such a
2 requirement should be established immediately.
3 In cases where a customer's line is already set up for line sharing by
4 VADI (*i.e.*, with both voice and data service provided by a Verizon entity), VADI
5 would already have deployed splitters in its collocation and have the UNE-loop
6 and switch port interconnected through the splitter. For a CLEC reselling the
7 voice service, Verizon would need to make the necessary billing changes to bill
8 the reseller at the appropriate wholesale discount. For a CLEC using UNE-P to
9 provide the voice service, the CLEC would assume responsibility for the loop,
10 switch port and shared transport UNEs through a records change processed by
11 Verizon – just as would occur with any other UNE-P migration. A "new" UNE-
12 P/DSL resale configuration would be established in the same manner as VADI
13 would establish a "new" line sharing configuration. In either UNE-P situation,
14 the billing for the DSL service would have to be redirected from the retail
15 customer to the CLEC, less the applicable resale discount, which is exactly the
16 same work that would be needed to establish DSL resale for a reseller of
17 Verizon's voice service. There is no need to disrupt the physical configuration of
18 the circuit in either case.

Q. WHY SHOULD VERIZON BE REQUIRED TO ALLOW RESALE OF ITS DSL SERVICES WHEN A CLEC USES A UNE-LOOP ARCHITECTURE TO PROVIDE VOICE SERVICE?

A. For a CLEC using a UNE-Loop architecture (including an unbundled local loop obtained from Verizon and its own switch) to provide voice service, the addition of Verizon's DSL service requires only that the "split" high frequency signals be routed to the ILEC's data switch using ordinary cross-connects. This can be accomplished by using the same cross-connection techniques used to provide line sharing.[82]

If AT&T provides a splitter in its own collocation in the customer's serving central office, Verizon would connect the loop outside plant to the facility connecting to the splitter input port, just as in line sharing. In this case however, instead of using cross-connects to send the low frequency signals back to Verizon's circuit switch and the high frequency signals to its own data network, the opposite would occur. That is, the CLEC will connect the low frequency output port of the splitter to its own local switching functionality (including use of a backhaul facility out of the Verizon office), and it will direct the Verizon to connect the facility associated with the high frequency signal output port of its splitter to the Verizon DSLAM and data switching network.

In all regards, the cross-connections required and the necessary customer disruption that occurs when the configuration is established are virtually

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82 Verizon would, of course, be entitled to assess the same cost-based non-recurring charges for these cross-connects as for the cross-connects that support line sharing.

1 indistinguishable to those involved in line sharing.[83] Similarly, assuming that
2 Verizon is required to provide access to the entire loop where it deploys next
3 generation digital loop architecture. Implementing this service arrangement is a
4 simple matter of establishing cross-connects to the appropriate CLEC voice
5 switch and to the DSLAM and data network of the Verizon entity providing the
6 DSL service.

7 **Q. ARE THERE ANY OTHER ISSUES THAT SHOULD BE ADDRESSED IN**
8 **THIS REGARD?**
9
10 **A.** The only question that remains is the charges that AT&T may assess to the
11 Verizon data entity when AT&T uses an unbundled loop to provide service using
12 either a UNE-P or UNE-L architecture and Verizon assesses a charge for the HFS.
13 Verizon should not be permitted to recover its loop costs more than once.
14 Therefore, if AT&T pays Verizon the full cost of the loop UNE (as part of the
15 UNE-P configuration), it should be permitted to charge the Verizon data entity the
16 same amount that such entity would otherwise pay Verizon for its use of the HFS
17 of that loop. This keeps all parties whole and places Verizon in the same position
18 it would be in if it (alone or in conjunction with its affiliate) provided both voice
19 and data services to the end user over the loop.

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83 Alternatively, if Verizon provides access to a split loop using its own splitter, then the low frequency signal output port of the Verizon-provided splitter would be connected to AT&T's collocation (and from there by AT&T to its voice switch) and the data signal output port of that same splitter would be connected to the Verizon DSLAM and then to its data switching network. Regardless of whether or not AT&T elects to provide the switching functionality for the low frequency spectrum transmission, a disruption of the customer's operating voice service is involved, but should be indistinguishable in all respects from what occurs when Verizon provides a splitter and implements line sharing for itself or its data affiliate.

The Commission should also prohibit Verizon from engaging in unreasonable and discriminatory practices that inhibit customers from purchasing resold DSL services. In particular, when a customer is served by a line sharing arrangement in which Verizon provides both the voice and DSL service, a UNE-P CLEC that is willing to resell a Verizon retail DSL service (regardless of the Verizon entity offering such service) should be able to transfer the customer seamlessly to a UNE-P/DSL resale arrangement, and Verizon should be prohibited from withdrawing or otherwise disrupting the retail customer's service during such a migration.

ISSUE VII-10	Should Verizon be permitted sufficient time to provision to AT&T loops provided via Integrated Digital Loop Carrier?

Q. WHAT IS WRONG WITH VERIZON'S SUGGESTION THAT AT&T USE THE "BONA FIDE REQUEST' PROCESS TO PROVISION IDLC LOOPS?

A. Verizon's suggestion that AT&T must resort to the Network Element Bona Fide Request ("BFR") process to obtain a loop that is served using Integrated Digital Loop Carrier ("IDLC") (and for which no spare copper facilities are available) is unacceptable. The BFR process is slow, cumbersome and expensive for AT&T. The BFR process is designed essentially for the provision of UNEs where one-of-a-kind work is involved or infrequent adjustment to existing routine processes is needed—in other words, where circumstances are out of the ordinary. However, the provisioning of loops using IDLC is neither new nor unusual in Verizon's network. It is highly likely that much more than a trivial proportion of the Verizon loops are currently served by IDLC, that is, loops where one end of the

1 multiplexing function is integrated into the local switch upon which the loop
2 terminates.

3 Another problem with the BFR process that Verizon seeks to impose is
4 that it is entirely open ended with respect to both time commitments and costs.
5 Certainty is required for AT&T to develop products to serve customers that use
6 integrated digital loop carrier. AT&T should be able to know when it places an
7 order for UNE-L what the provisioning interval will be, so that AT&T can
8 confidently commit to its customers. Of course, this should not result in a "least
9 common denominator" solution where the absolutely longest interval is always
10 quoted. Verizon cannot be permitted to further leverage it already substantial
11 competitive advantage of having loops integrated with it switches so that virtually
12 instantaneous provisioning may occur.

13 **Q. PLEASE PROVIDE SOME EXAMPLES OF THE DELAYS THAT YOU**
14 **DISCUSS ABOVE.**

15 **A.** Verizon's suggested process creates deep uncertainty and substantial delay for
16 AT&T and AT&T's customers. First, under Verizon's loop provisioning scenario
17 AT&T will not know until three business days after the order is placed whether
18 the loop can actually be provisioned in the ordinary course of business, under
19 standard provisioning intervals. This could be as much as five calendar days if a
20 weekend intervenes. That means that AT&T is essentially unable to make any
21 commitment to its customer about when service will be implemented for at least
22 3-5 calendar days. Second, if the ordered loop is IDLC and no spare copper is
23 available, AT&T is thrown into the open-ended BFR process, in which case there
24 is no way to know when, if ever, the loop will be provisioned. Verizon

specifically demands that standard provisioning intervals "shall not apply." At that point the customer might well be inclined to give up on AT&T and order its services from Verizon – which, if the loop is on IDLC, could likely have service up and working while the customer was still on the line with Verizon's sales representative.

Q. WHAT IS AT&T'S PROPOSED SOLUTION TO THE PROVISIONING OF IDLC LOOPS?

A. The very presence of the technology is a barrier to a CLEC seeking to serve customers by using UNE-L. Consequently, Verizon should have in place a standardized process to quickly, reliably and inexpensively address AT&T's order for a loop where that loop is currently provisioned using IDLC and where no spare copper facilities are available. Verizon's loop qualifications systems are, or at least should be, capable of identifying such loops, so that Verizon may rely upon its information in returning a Firm Order Confirmation ("FOC") to AT&T. The standardized process that should be – but apparently is not – in place should identify such loops in the loop qualification process that precedes a FOC. Verizon should not be returning a FOC for a loop served by IDLC only to subsequently unilaterally re-start the provisioning clock with an interval of unknown but certainly much longer length, simply because Verizon subsequently "found" that no copper was available or that it was unwilling to re-arrange the loop to UDLC.

ISSUE III.8 Is Verizon obligated to provide access to UNEs and UNE combinations (such as enhanced extended links and sub-loops) at any technically feasible point on its network, not limited to points at which AT&T collocates on Verizon's premises?

ISSUE III.11 How should Verizon provide full and non-discriminatory access to all subloop elements at any technically feasible points in order to be consistent with the UNE Remand Order? A. How is the sub-loop defined? B. Must Verizon make a reasonable set of "standardized" subloop elements available? C. Must Verizon make an on-premise wiring subloop element available as a routine manner wherever the ILEC owns or controls the on-premises wiring? D. Must Verizon define general terms and conditions surrounding access to both the feeder and the distribution subloop elements?

Q. WHAT ISSUES ARE YOU ADDRESSING IN THIS SECTION?

A. I am addressing Issues III-11 and III-8, listed above. I will show how AT&T's proposed interconnection agreement provisions, particularly those involving access to unbundled subloops, reasonably and accurately put into practice recent Commission actions intended to assure that competitive telecommunications carriers obtain nondiscriminatory access to customers in Multiple Tenant Environments ("MTEs"). AT&T has properly sought the type of efficient and practical access that is necessary to serve customers located in MTEs situated within the operating territory of Verizon in Virginia. In addition, I will also identify aspects of the Verizon contract language that impose costly and restrictive terms on MTE access.