

**General Terms and
Conditions**

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
Petition of WorldCom, Inc. Pursuant)	
to Section 252(e)(5) of the)	
Communications Act for Expedited)	
Preemption of the Jurisdiction of the)	CC Docket No. 00-218
Virginia State Corporation Commission)	
Regarding Interconnection Disputes)	
with Verizon Virginia Inc., and for)	
Expedited Arbitration)	
)	
In the Matter of)	CC Docket No. 00-249
Petition of Cox Virginia Telecom, Inc., etc.)	
)	
In the Matter of)	CC Docket No. 00-251
Petition of AT&T Communications of)	
Virginia Inc., etc.)	

**VERIZON VA'S DIRECT TESTIMONY ON MEDIATION ISSUES
(CATEGORIES I AND III THROUGH VII)**

GENERAL TERMS AND CONDITIONS

- CHRISTOS T. ANTONIOU
- MICHAEL A. DALY
- STEVEN J. PITTERLE

AUGUST 17, 2001

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1 **I. WITNESS BACKGROUND**

2 **A. CHRISTOS T. ANTONIOU**

3 **Q. PLEASE STATE YOUR NAME, TITLE AND BUSINESS ADDRESS.**

4 A. My name is Christos T. Antoniou and my business address is 2107 Wilson
5 Boulevard, 11th Floor, Arlington, Virginia.

6

7 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

8 A. I am employed as an attorney by Verizon Services Corp. (“Verizon”). I assumed
9 my current position in May 1998.

10

11 **Q. PLEASE SUMMARIZE YOUR EDUCATIONAL BACKGROUND AND**
12 **EXPERIENCE IN THE TELECOMMUNICATIONS INDUSTRY.**

13 A. My educational background and experience in the telecommunications industry is
14 described in detail at Rebuttal Exhibit GTC-1. As highlighted therein, prior to
15 joining Verizon, I was a corporate attorney at Skadden, Arps, Slate, Meagher &
16 Flom LLP, and at Milbank, Tweed, Hadley & McCloy, focusing on project
17 finance and other corporate issues. I received a J.D. from Yale Law School in
18 1992 and a B.S. from the United States Military Academy at West Point in 1984.
19 Prior to practicing law, I served as an officer in the United States Army.

20

21 **Q. PLEASE STATE IN GENERAL TERMS YOUR RESPONSIBILITIES.**

1 A. My principal areas of responsibility are negotiating, arbitrating and litigating
2 contractual arrangements and disputes under the Telecommunications Act of
3 1996, and providing legal advice to Verizon's product managers for
4 interconnection and related matters.

5

6B. MICHAEL A. DALY

7 **Q. PLEASE STATE YOUR NAME, TITLE AND BUSINESS ADDRESS.**

8 A. My name is Michael A. Daly and my business address is 2107 Wilson Boulevard,
9 11th Floor, Arlington, Virginia.

10

11 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

12 A. I am employed by Verizon Services Group ("Verizon"), Wholesale Markets,
13 which is the Verizon business unit responsible for serving resellers and other
14 competitive local exchange carriers ("CLECs"). I am a director in the
15 Interconnection Services group responsible for contract negotiations. I assumed
16 my current position in February, 1997.

17

18 **Q. PLEASE SUMMARIZE YOUR EDUCATIONAL BACKGROUND AND**
19 **EXPERIENCE IN THE TELECOMMUNICATIONS INDUSTRY.**

20 A. My educational background and experience in the telecommunications industry is
21 described in detail at Exhibit GTC-1. As highlighted therein, during my twenty-

1 two year career with Verizon and its predecessor companies, I have held a variety
2 of positions with increasing levels of responsibility in Sales, Marketing, Product
3 Management and Interconnection Services.

4

5 **Q. PLEASE STATE IN GENERAL TERMS YOUR RESPONSIBILITIES.**

6 A. My principal responsibility is to direct a team of negotiators representing Verizon
7 in the course of interconnection negotiations with CLECs pursuant to Sections
8 251 and 252 of the Telecommunications Act of 1996. I have specific
9 accountability for negotiations with AT&T. I also oversee the interconnection
10 negotiations with Commercial Mobile Radio Service (“CMRS”) carriers as well
11 as manage a team of people responsible for the processing of requests for
12 negotiations.

13

14C. **STEVEN J. PITTERLE**

15 **Q. PLEASE STATE YOUR NAME, TITLE AND BUSINESS ADDRESS.**

16 A. My name is Steven J. Pitterle and my business address is 600 Hidden Ridge
17 Drive, Irving, Texas, 75038.

18

19 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

20 A. I am employed by Verizon Services Group (“Verizon”) as Director --
21 Negotiations.

1

2 **Q. PLEASE SUMMARIZE YOUR EDUCATIONAL BACKGROUND AND**
3 **EXPERIENCE IN THE TELECOMMUNICATIONS INDUSTRY.**

4 A. My educational background and experience in the telecommunications industry is
5 described in detail at Exhibit GTC-1. As highlighted therein, during my thirty-
6 one year career with Verizon and its predecessor companies, I have held a variety
7 of position with increasing levels of responsibility in Engineering, Service,
8 Regulatory Affairs, intraLATA Compensation Administrator, Interexchange
9 Account Manager for the former GTE North, and Wisconsin Director-External
10 Affairs.

11

12 **Q. PLEASE STATE IN GENERAL TERMS YOUR RESPONSIBILITIES.**

13 A. My principal responsibility is to oversee Verizon's competitive local exchange
14 carrier ("CLEC") interconnection negotiation activities, as specified by Sections
15 251 and 252 of the Telecommunications Act of 1996, for defined areas within
16 Verizon. I am also involved in the development of policies pertaining to
17 interconnection matters.

18

19 **II. PURPOSE AND OVERVIEW OF TESTIMONY**

20 **Q. WHAT IS THE PURPOSE OF THE DIRECT TESTIMONY OF THE**
21 **GENERAL TERMS AND CONDITIONS PANEL ON THE MEDIATION**
22 **ISSUES IN THIS ARBITRATION?**

1 A. To the extent that the mediation issues have not been resolved, the purpose of this
2 testimony is to explain the contract provisions Verizon VA proposes with respect
3 to the General Terms and Conditions issues raised by Petitioners or Verizon VA
4 in this proceeding, to support Verizon VA's position with respect to the General
5 Terms and Conditions issues, and to respond to the contract language and
6 positions of the Petitioners on the General Terms and Conditions issues.

7

8 **Q. PLEASE PROVIDE AN OVERVIEW OF THE GENERAL TERMS AND**
9 **CONDITIONS ISSUES, HOW THEY WERE ADDRESSED, AND**
10 **WHETHER THEY HAVE BEEN RESOLVED.**

11 A. Originally, there were approximately 70 "general terms and conditions" issues,
12 including supplemental issues. With nine exceptions (Issues I-10, III-15, V-11,
13 and VII-16 through VII-22), the "terms and conditions" issues are unique to
14 WorldCom. Exhibit C-1 to Verizon's Answer to WorldCom's Petition represents
15 Verizon VA's proposed interconnection agreement to WorldCom, including its
16 proposed contract language for the general terms and conditions issues. Despite
17 Verizon VA's continued belief that the Verizon VA-proposed interconnection
18 agreement should be adopted, Verizon VA was willing to narrow the issues in this
19 section so as to minimize the burden on the Commission in resolving this
20 arbitration. Accordingly, for numerous general terms and conditions issues,
21 Verizon VA indicated in its Answer to WorldCom's Petition where it would not
22 further contest the WorldCom-proposed language, if the Commission deems it
23 necessary to adopt such language in the context of an arbitrated agreement. For

1 various other general terms and conditions issues, Verizon VA proposed resolving
2 open issues with WorldCom by adopting the corresponding contract language to
3 which Verizon VA and AT&T had already agreed. For all of the remaining
4 general terms and conditions issues in dispute, except for Issue I-10 (term of the
5 interconnection agreement), the parties agreed to attempt to reach further
6 resolution in the context of mediation. Despite the combined result of these
7 efforts, the following issues remain unresolved:

- 8 III-15: Intellectual Property
- 9 IV-45: Fraud Prevention
- 10 IV-84: Scope of Agreement
- 11 IV-85: Agreement versus Tariff
- 12 IV-88: Assignment and Delegation
- 13 IV-91: Branding
- 14 IV-95: Responsibility for Costs and Expenses
- 15 IV-97: Confidential Information
- 16 IV-101: Binding Arbitration
- 17 IV-106: Indemnification
- 18 IV-107: Intellectual Property
- 19 IV-110: Migration of Service
- 20 IV-113: Negotiation Prompted by Changes in Law
- 21 IV-120: Remedies (Available Remedies)
- 22 IV-121: Remedies (Performance Standards, Metrics, and Self-Executing
23 Remedies)
- 24 IV-129: Definitions
- 25 V-11: Indemnification for Directory Listings
- 26 VI-1(N): Assurance of Payment
- 27 VI-1(O): Default
- 28 VI-1(P): Discontinuance of Service by CLEC
- 29 VI-1(Q): Insurance
- 30 VI-1(R): References
- 31 VI-1(T): Technology Upgrades
- 32 VII-17: Transfer of Telephone Operations
- 33 VII-19: Language Withdrawn by AT&T (resolved except for Section
34 6.4 of the parties' proposed agreement).
- 35

36 In addition to the issues identified as "General Terms and Conditions" issues in
37 various pleadings, this Panel addresses a related issue grouped in previous

1 pleadings with Miscellaneous issues--Issue V-15 relating to sales of exchanges.

2 In addition, this Panel addresses two related issues grouped in previous pleadings
3 with UNE issues -- Issue Nos. IV-15 and VI-1(E) relating to change in law
4 provisions.

5
6 Verizon VA will continue to work cooperatively with the Petitioners to resolve as
7 many of these issues as possible prior to the hearing. In any case, this Panel
8 addresses the currently unresolved issues separately below.

9
10 **III. INTELLECTUAL PROPERTY (Issue III-15)**

11 **Q. BRIEFLY DESCRIBE THE STATUS OF THIS ISSUE.**

12 A. This issue, which is common to WorldCom and AT&T, was not resolved by the
13 parties. However, the essential dispute seems to revolve around whether either
14 AT&T or WorldCom is entitled to indemnification or warranties associated with
15 Verizon VA's obligation to use its "best efforts" to ensure that AT&T and
16 WorldCom have from Verizon VA's vendors the necessary intellectual property
17 rights to use Verizon VA's network (including, most particularly, software
18 licensing rights).

19
20 **Q. WHAT DOES VERIZON VA PROPOSE TO MEMORIALIZE ITS**
21 **OBLIGATION TO USE BEST EFFORTS TO PROCURE THE**
22 **RELEVANT RIGHTS AND LICENSES FOR AT&T AND WORLDCOM**

1 **TO USE THE INTELLECTUAL PROPERTY OF THIRD-PARTY**
2 **VENDORS EMBEDDED IN VERIZON VA’S NETWORK?**

3 A. Pursuant to the *UNE Licensing Order*,¹ there are four basic components of the law
4 applicable to this intellectual property issue:

- 5 • Verizon must make UNEs available to CLECs;
- 6 • Verizon must inform CLECs of applicable restrictions, if any, contained in
7 third party licensing agreements, affecting CLECs’ uses of UNEs provided
8 by Verizon;
- 9 • Verizon must use best efforts to negotiate or renegotiate licenses to
10 procure the relevant rights and licenses for AT&T and WorldCom to use
11 the intellectual property of third-party vendors embedded in Verizon’s
12 network; and
- 13 • Verizon may allocate any costs associated with acquiring the necessary
14 intellectual property rights among all requesting carriers.

15 Verizon’s proposed language to AT&T (and the language it proposed to use for
16 WorldCom) is consistent with this applicable law. It provides:

17 28.16.4 AT&T acknowledges that services and
18 facilities to be provided by BA hereunder may
19 use or incorporate products, services or
20 information proprietary to third party vendors
21 and may be subject to third party intellectual
22 property rights. In the event that proprietary
23 rights restrictions in agreements with such third
24 party vendors do not permit BA to provide to
25 AT&T, without additional actions or costs,
26 particular unbundled Network Element(s)
27 otherwise required to be made available to
28 AT&T under this Agreement, then, as may be
29 required by Applicable Law:

30
31 a) BA agrees to notify AT&T, directly or
32 through a third party, of such restrictions that
33 extend beyond restrictions otherwise imposed

¹ *In re Petition of MCI for Declaratory Ruling that New Entrants Need not Obtain Separate License or Right-to-Use Agreements before Purchasing Unbundled Elements*, Memorandum Opinion and Order, 15 F.C.C.R. 13896 (2000).

1 under this Agreement or applicable Tariff
2 restrictions (“Ancillary Restrictions”); and
3

4 b) *BA shall use its best efforts*, as commercially
5 practical, to procure rights or licenses to allow
6 BA to provide to AT&T the particular
7 unbundled Network Element(s), on terms
8 comparable to terms provided to BA, directly or
9 on behalf of AT&T (“Additional
10 Rights/Licenses”). Costs associated with the
11 procurement of Additional Rights/Licenses shall
12 be passed through to AT&T as permitted under
13 Applicable Law.
14

15 Verizon VA’s proposed language makes UNEs available, provides notification of
16 any restrictions (which, to date, has been only a theoretical requirement), obligates
17 Verizon VA’s best efforts to procure rights or licenses again (which to date, has
18 been only a theoretical requirement), and provides for cost recovery as permitted
19 under “applicable law” (which also has, to date, been only a theoretical issue).
20

21 **Q. WHY DOES VERIZON VA OBJECT TO AT&T’S AND WORLDCOM’S**
22 **PROPOSED CONTRACT LANGUAGE?**

23 A. WorldCom and AT&T both want something much more than Verizon VA’s “best
24 efforts.” Specifically, both AT&T and WorldCom attempt to replace the “best
25 efforts” standard prescribed by the Commission with a commercially
26 unreasonable strict liability standard, by injecting indemnification obligations not
27 required by applicable law.
28

1 AT&T cites only § 251 of the Act for the proposition that Verizon VA must
2 warrant permissible uses of UNEs. This is unreasonably straining the meaning of
3 § 251, especially in light of Verizon VA's agreement to notify AT&T of any
4 restrictions. WorldCom has proposed revisions to the existing contract language,
5 citing the *UNE Licensing Order* and the decision of United States Court of
6 Appeals for the Fourth Circuit in *AT&T Communications of Virginia, Inc. v. Bell*
7 *Atlantic-Virginia, Inc.*, 197 F.3d 663 (4th Cir. 1999). However, WorldCom fails
8 to explain how Verizon VA's proposed contract language is inconsistent with the
9 law it cites. By suggesting warranty or indemnification language that goes
10 beyond these requirements, both AT&T and WorldCom seek to guarantee results
11 beyond Verizon VA's control, implying that if a certain result is not achieved,
12 then Verizon VA must have failed to use "best efforts." Nothing cited by AT&T
13 or WorldCom provides a basis for imposing these warranty or indemnification
14 obligations on Verizon VA.

15
16 Moreover, AT&T's proposal to require Verizon VA to hold it harmless has been
17 rejected by the New York Public Service Commission. *Joint Petition of AT&T*
18 *Communication of New York, Inc., TCG New York Inc. and ACC Telecom Corp.*
19 *Pursuant to Section 252(b) of the Telecommunications Act of 1996 for Arbitration*
20 *to Establish an Interconnection Agreement with Verizon New York Inc., (AT&T-*
21 *Verizon New York Order)*, Case No. 01-C-0095, at 23 (July 30, 2001). The New
22 York Commission rejected AT&T's proposed language to the extent that is

1 “would, in effect, have Verizon guarantee the performance of third party vendors
2 to AT&T, which is unnecessary.” *Id.*

3
4 **IV. FRAUD PREVENTION (Issue IV-45)**

5 **Q. BRIEFLY DESCRIBE THE STATUS OF THIS ISSUE.**

6 A. This issue, which is unique to WorldCom, was not completely resolved by the
7 parties. However, the essential dispute seems to revolve around WorldCom’s
8 proposal that the parties’ contract include a clause that requires each party to
9 “indemnify and hold each other harmless for any losses resulting [from]
10 unauthorized use of the indemnifying party’s facilities or services, for example,
11 ‘clip on’ fraud or calling card services.”

12
13 **Q. WHY DOES VERIZON VA OBJECT TO WORLDCOM’S PROPOSED**
14 **CONTRACT LANGUAGE?**

15 A. WorldCom seeks to impose upon Verizon VA obligations that it has no duty to
16 satisfy and which, importantly, are commercially unreasonable. The Commission
17 permits the ILEC to implement reasonable security procedures, but does not
18 impose a burden on the ILEC to meet any particular security demands made by
19 the CLEC. *See Advanced Services Order II* at ¶¶ 46-48; *Local Competition Order*
20 *at* ¶ 598. As Verizon VA has in the past, and as is clearly stated in § 26 of
21 Verizon VA’s proposed interconnection agreement, Verizon VA will continue to
22 cooperate with any CLEC to minimize fraud. Verizon VA is opposed, however,

1 to the language proposed by WorldCom, which seeks to shift the burden of
2 liability from WorldCom to Verizon VA for losses occasioned by certain types of
3 fraud. The proper formula is that set forth in Verizon VA's proposed
4 interconnection agreement, Terms and Conditions of Agreement § 17: "CLEC
5 assumes responsibility for all fraud associated with its Customers and accounts."
6 Just as Verizon VA shoulders the loss for any fraud perpetrated against it by its
7 end-user customers, so should WorldCom shoulder that loss for fraud perpetrated
8 by its customers. Otherwise, Verizon VA would be a guarantor -- effectively
9 guaranteeing that when WorldCom provides services to its customers that it will
10 do so without the risk of any fraud. It seems that WorldCom would have Verizon
11 VA station guards at every telephone pole, NID, cabinet and the like to ensure that
12 no fraud is perpetrated. This is, of course, ridiculous. Verizon VA's network
13 spans a massive territory, and it is commercially unreasonable to have Verizon
14 VA undertake the obligation WorldCom has suggested. Instead, each party
15 should be responsible for dealing with any fraud that is perpetrated against its
16 respective customers.

17

18 **V. SCOPE OF AGREEMENT (Issue IV-84)**

19 **Q. BRIEFLY DESCRIBE THE STATUS OF THIS ISSUE.**

20 A. This issue, which is unique to WorldCom, was not resolved by the parties,
21 although the parties may have clarified their dispute. The issue arises from
22 WorldCom's proposed Part A, § 1.2, which has three subparts.

1

2 **Q. PLEASE DESCRIBE WORLDCOM'S PROPOSED PART A, § 1.2 AND**
3 **VERIZON VA'S OBJECTION TO ITS INCLUSION IN THE PARTIES'**
4 **INTERCONNECTION AGREEMENT.**

5 A. In the first sentence of WorldCom's proposed Part A, § 1.2, WorldCom proposes
6 that Verizon VA be obligated to provide services in any technically feasible
7 combination requested by WorldCom (excepting Local Resale). Although
8 Verizon VA is unsure what WorldCom seeks with this proposed language,
9 Verizon VA believes that the parties' UNE attachment (see Section 16) is the
10 appropriate place to address the issue of combinations. Specifically, Verizon VA
11 will comply with applicable law, but it cannot be forced to obligate itself through
12 the interconnection agreement beyond the requirements of applicable law as that
13 law may change over time. Accordingly, the first sentence of WorldCom's
14 proposed Part A, § 1.2 should be rejected for inclusion in this part of the General
15 Terms and Conditions section of the parties' agreement.

16

17 In the second sentence of WorldCom's proposed Part A, § 1.2, WorldCom
18 proposes that the parties be prohibited from discontinuing or refusing to provide
19 any service provided or required under the interconnection agreement (except in
20 accordance with the terms of the interconnection agreement), without the other
21 party's written agreement. We believe that Verizon VA and WorldCom disagree
22 regarding the appropriate "change in law" provision. However, the parties have
23 agreed to address this issue in connection with Issue No. IV-113 and the

1 associated contract language. Accordingly, the second sentence of WorldCom’s
2 proposed Part A, § 1.2 should be rejected for inclusion in this part of the General
3 Terms and Conditions section of the parties’ agreement.

4
5 In the third sentence of WorldCom’s proposed Part A, § 1.2, WorldCom proposes
6 that Verizon VA be prohibited from altering its network without notice in a
7 manner (i) inconsistent with the Commission’s notice requirements and (ii) that
8 would impair WorldCom’s rights under the interconnection agreement. Verizon
9 VA must be permitted to change its network in accordance with applicable law.
10 Verizon VA proposes contract language that addresses this in § 42 of its proposed
11 interconnection agreement with WorldCom, which is the subject of Issue No. VI-
12 1(T), discussed below. Accordingly, the third sentence of WorldCom’s proposed
13 Part A, § 1.2 should be rejected for inclusion in this part of the General Terms and
14 Conditions section of the parties’ agreement.

15
16 **VI. AGREEMENT VERSUS TARIFF (Issue IV-85)**

17 **Q. BRIEFLY DESCRIBE THE STATUS OF THIS ISSUE.**

18 A. Although this issue is grouped in pleadings with the general terms and conditions
19 issues, and it may ultimately be addressed with contract language included in the
20 general terms and conditions section of the agreement, the pricing terms and
21 conditions panel has addressed all the “agreement versus tariff” issues together.

1 **VII. ASSIGNMENT AND DELEGATION (Issue IV-88)**

2 **Q. BRIEFLY DESCRIBE THE STATUS OF THIS ISSUE.**

3 A. This issue, which is unique to WorldCom, was not resolved by the parties.
4 However, the essential dispute seems to revolve around whether WorldCom will
5 agree to Verizon VA's proposed modification to its proposed language.

6
7 WorldCom originally proposed in Part A, § 3.1, that the interconnection
8 agreement contain a provision: (i) making assignments or delegations of
9 interconnection agreement rights or obligations to any non-affiliated entity void,
10 without prior written notice and consent, (ii) requiring written notice of an
11 assignment or delegation to an affiliate, and (iii) further setting forth the rights and
12 obligations of the parties upon a valid assignment or delegation. In the interest of
13 narrowing issues for arbitration, Verizon VA indicated its agreement to inclusion
14 of WorldCom's proposed language with a slight modification. That is, Verizon
15 VA proposed that the clause should apply to all assignments and delegations,
16 including to affiliated companies. This is to ensure that an unscrupulous carrier
17 does not have the right to delegate its obligations to an affiliated shell company
18 (*i.e.*, one without financial resources) and that a financially distressed carrier does
19 not have the right to assign only its rights (but not its obligations) to a non-
20 distressed affiliate, in either case without the consent of the other party to the
21 agreement.

1 Alternatively, Verizon VA has communicated its willingness to use the same
2 language for this section as that to which AT&T and Verizon VA have agreed in
3 § 28.8 of the Verizon/AT&T proposed interconnection agreement. That language
4 states:

5 **28.8 Assignment and Delegation**

6 **28.8.1** Neither Party may assign this Agreement or any of
7 its rights or interests hereunder, nor delegate any of its
8 obligations under this Agreement, to a third party without
9 the prior written consent of the other Party, which consent
10 will not be unreasonably withheld; provided, however, that
11 either Party may assign this Agreement to an affiliate, with
12 the other Party's prior written consent, upon the provision
13 of reasonable evidence by the proposed assignee that it has
14 the resources, ability, and authority to provide satisfactory
15 performance under this Agreement and that the proposed
16 assignee is in good standing with Verizon or AT&T, as
17 applicable. Any assignment or delegation in violation of
18 this subsection 28.8 shall be void and ineffective and
19 constitute a default of this Agreement. For the purposes of
20 this Section, the term "affiliate" shall mean any entity that
21 controls, is controlled by, or is under common control with
22 the assigning Party.
23

24 Moreover, in the context of mediation, Verizon VA proposed a further
25 modification recognizing that consent would be required in the case of an
26 assignment or delegation to an affiliate only if the assignor or proposed assignee is
27 not current in its payments (i.e., there is a payment default -- Verizon VA having
28 made clear, to assuage WorldCom's concerns, that a bona fide good faith billing
29 dispute does not constitute a payment default).

30

1 **VIII. BRANDING (Issue IV-91)**

2 **Q. BRIEFLY DESCRIBE THE STATUS OF THIS ISSUE.**

3 A. This issue, which is unique to WorldCom, was not resolved by the parties.
4 However, the essential dispute seems to revolve around whether Verizon VA can
5 be required to provide branding in the UNE-P context. In reaching agreement on
6 the terms of the Resale Attachment, Verizon VA and WorldCom have reached
7 agreement regarding the branding provisions that will apply in the context of
8 resold services. Notwithstanding that agreement, WorldCom proposes in Part A,
9 § 7, detailed provisions regarding how branding should occur.

10
11 **Q. DESCRIBE VERIZON VA'S OPPOSITION TO WORLDCOM'S**
12 **PROPOSED BRANDING PROVISIONS IN PART A, § 7?**

13 A. WorldCom's proposed language is problematic in that it calls for branding for
14 services other than resold services – specifically in the UNE-P context. The ILEC
15 obligation to provide branding services exists when the CLEC purchases a
16 package including operator, call completion or directory assistance from the ILEC
17 as a part of the resale of services.² Verizon VA is willing to provide branding to
18 WorldCom in accordance with the Commission's rules regarding resale.
19 Nevertheless, Verizon VA is under no obligation to provide branding to
20 WorldCom when WorldCom leases Verizon VA's network elements pursuant to a
21 UNE-P configuration.

² See 47 C.F.R. 51.613(c) (2000).

1 WorldCom contends that “if WorldCom is providing service to end users via the
2 UNE-Platform, Verizon VA would have to brand the service to reflect that the
3 customer is receiving service from WorldCom.” WorldCom misunderstands what
4 it leases from Verizon when it provides telecommunications services to end users
5 via the UNE-P. Moreover, WorldCom can provide operator services and
6 directory assistance through other means over the UNE-P. For instance, Verizon
7 VA is willing to provide customized routing to WorldCom and, in addition,
8 WorldCom can make arrangements through third-party sources to “reflect that the
9 customer is receiving service from WorldCom.”

10
11 Unlike resale, in which WorldCom purchases Verizon VA’s telecommunication
12 services at a wholesale discount, when WorldCom purchases the UNE-P it leases
13 Verizon VA’s physical network. As the Commission articulated in the *UNE*
14 *Remand Order*, Verizon VA has an obligation under certain circumstances to
15 unbundle network elements, which include loops, subloops, local switching, and
16 interoffice transmission facilities, among other elements. “Branding” is not a
17 network element, but a service Verizon VA provides pursuant to its resale
18 obligations. Verizon VA provides WorldCom with customized routing as a
19 means through which WorldCom can provide operator services and directory
20 assistance to its end users. WorldCom’s position on this issue appears to be an
21 attempt to circumvent the Commission’s decision on the unbundling of OS/DA in
22 the *UNE Remand Order*.

1 In the *UNE Remand Order*, the Commission declared that:

2 where incumbent LECs provide customized routing, lack of access
3 to the incumbents' OS/DA service on an unbundled basis does not
4 materially diminish a requesting carrier's ability to offer
5 telecommunications service. The record provides significant
6 evidence of a wholesale market in the provision of OS/DA services
7 and opportunities for self-provisioning OS/DA services . . . We
8 note that nondiscriminatory access to the incumbent's underlying
9 databases used in the provision of OS/DA is required under section
10 251(b)(3) of the 1996 Act . . . Accordingly, incumbent LECs need
11 not provide access to its OS/DA as an unbundled network element.³

12
13 The Commission specifically refused to broaden the definition of OS/DA to
14 include the "affirmative obligation to rebrand OS/DA" ⁴ WorldCom
15 impermissibly seeks to expand the definition of OS/DA in this interconnection
16 arbitration to include branding and illegitimately attempts to force Verizon VA to
17 unbundle its OS/DA. Because Verizon VA provides customized routing and since
18 other alternatives exist for WorldCom to provide OS/DA Services WorldCom
19 should not be allowed to do indirectly what it cannot do directly, that is – require
20 Verizon VA to rebrand OS/DA.

21
22 WorldCom's proposed language is further problematic in that it fails to recognize
23 the need for the Parties' to negotiate the specific terms for branding. WorldCom
24 ignores the fact that there should be a fee for branding and mistakenly assumes
25 that branding is automatic and free. In proposing language that prohibits Verizon
26 VA from interfering with WorldCom's branding, WorldCom suggests that
27 WorldCom could somehow manipulate Verizon VA's network to provide
28 branding. Finally, Verizon VA cannot agree to WorldCom's vague and

1 ambiguous proposal that Verizon VA will always “thoroughly” test its interfaces
2 and transfer features before providing branding to WorldCom or third parties.

3
4 As stated previously, Verizon VA would be willing to incorporate the language to
5 which Verizon VA and AT&T have agreed in §§ 12.3 and 18.2 of the Verizon
6 VA-proposed interconnection agreement for AT&T, as follows:

7
8 12.3 To the extent required by Applicable Law, upon request by
9 AT&T and at prices, terms and conditions to be negotiated by
10 AT&T and Verizon, Verizon shall provide Verizon Resold
11 Services that are identified by AT&T’s trade name, or that are not
12 identified by trade name, trademark or service mark.

13
14 . . .

15 12.8.1 Verizon will recognize AT&T as the customer of record of
16 all services ordered by AT&T under this Agreement. AT&T shall
17 be the single point of contact for AT&T Customers with regard to
18 all services, facilities or products provided by Verizon to AT&T
19 and other services and products which they wish to purchase from
20 AT&T or which they have purchased from AT&T.
21 Communications by AT&T Customers with regard to all services,
22 facilities or products provided by Verizon to AT&T and other
23 services and products which they wish to purchase from AT&T or
24 which they have purchased from AT&T, shall be made to AT&T,
25 and not to Verizon. AT&T shall instruct AT&T Customers that
26 such communications shall be directed to AT&T.

27 12.8.2 Requests by AT&T Customers for information about or
28 provision of products or services which they wish to purchase
29 from AT&T, requests by AT&T Customers to change, terminate,
30 or obtain information about, assistance in using, or repair or
31 maintenance of, products or services which they have purchased
32 from AT&T, and inquiries by AT&T Customers concerning
33 AT&T’s bills, charges for AT&T’s products or services, and, if
34 the AT&T Customers receive dial tone line service from AT&T,

³ *UNE Remand Order* ¶ 441-42.

⁴ *Id.* at ¶ 444.

1 annoyance calls, shall be made by the AT&T Customers to
2 AT&T, and not to Verizon.

3 18.2.3 AT&T and Verizon will employ the following procedures
4 for handling misdirected repair calls:

5 18.2.3.1 AT&T and Verizon will educate their respective
6 Customers as to the correct telephone numbers to call in order
7 to access their respective repair bureaus.

8 18.2.3.2 To the extent Party A is identifiable as the
9 correct provider of service to Customers that make misdirected
10 repair calls to Party B, Party B will immediately refer the
11 Customers to the telephone number provided by Party A, or to
12 an information source that can provide the telephone number of
13 Party A, in a courteous manner and at no charge.

14 In responding to misdirected repair calls, neither Party shall
15 make disparaging remarks about the other Party, its services,
16 rates, or service quality.

17 18.2.3.3 AT&T and Verizon will provide their respective
18 repair contact numbers to one another on a reciprocal basis.

19 18.2.4 In addition to Section 7.6 addressing misdirected repair
20 calls, the Party receiving other types of misdirected inquiries from
21 the other Party's Customer shall not in any way disparage the
22 other Party.
23
24

25 **IX. RESPONSIBILITY FOR COSTS AND EXPENSES (Issue IV-95)**

26 **Q. BRIEFLY DESCRIBE THE STATUS OF THIS ISSUE.**

27 A. This issue, which is unique to WorldCom, was not resolved by the parties.
28 WorldCom proposes in Part A, § 8.2 a provision making each party (subject to
29 certain exceptions) responsible for all costs and expenses incurred in complying
30 with its obligations under the interconnection agreement, and requiring each party
31 to undertake the technological measures necessary for such compliance.