

1 **Q. What is the substance of the Verizon Direct Testimony to which you are**  
2 **responding?**

3 A. Verizon does not appear to disagree with the inclusion of a change-in-law  
4 provision in the Agreement. It does reassert, however, that it “must have the right to  
5 cease providing a service or benefit if it is no longer required to do so under applicable  
6 law,” and, therefore, objects to the inclusion of a change-in-law process that would  
7 require the parties to mutually agree on the new terms and conditions. Instead, Verizon  
8 proposes language that would allow it to unilaterally discontinue providing a service or  
9 benefit if Verizon believes it is no longer required to do so under Applicable Law.

10

11 **Q. What is WorldCom’s response to Verizon’s Direct Testimony on this issue?**

12 A. Verizon’s position – that it should be able to cease providing a service based on  
13 its own individual assessment of a purported change in law – undermines the very  
14 purpose of the Agreement. As we explained in our Direct Testimony, it is critical that the  
15 parties mutually agree on any necessary amendments to the Agreement.

16 As these proceedings demonstrate, the parties often disagree on the interpretation  
17 of law. Verizon’s proposal is blind to this fact. It would leave no opportunity for the  
18 parties to reach agreement on the scope of the change in law. This is not an insignificant  
19 point. Verizon, under its proposal, could interpret a change in law in a way that  
20 erroneously and adversely affect WorldCom customers and leaves WorldCom with little  
21 recourse.

22 As we explained in our Direct Testimony, and as we made clear during mediation,  
23 WorldCom does not seek to deny Verizon the benefits of any changes in law or hold

1 Verizon hostage. If a change in law clearly allows Verizon to, for example, terminate a  
2 particular service, WorldCom will abide by the clear new law. In the event that the rights  
3 and responsibilities resulting from a change in law are uncertain, however, Verizon  
4 should not be able to unilaterally alter the obligations it owes to WorldCom without  
5 WorldCom's consent (any more than WorldCom should be able to impose additional  
6 obligations on Verizon that Verizon disputes). Negotiation, accordingly, is the only  
7 reasonable and fair way to resolve the dispute.<sup>17</sup>

8

9 **Q. What does WorldCom request of the Commission on this issue?**

10 A. WorldCom requests that the Commission order the inclusion of WorldCom's  
11 proposed Part A, Section 25.2 into the Interconnection Agreement, and the exclusion of  
12 Verizon's proposed 25.8.

13

14

**Issue IV-121**

15

**(Performance Standards)**

16 **Q. What is WorldCom's position on this issue?**

17 A. The Interconnection Agreement should contain a provision that requires Verizon  
18 to perform its obligations under the Agreement in accordance with performance  
19 standards, metrics, and self-executing remedies established by the FCC, the state  
20 commission, or any governmental body of competent jurisdiction. The Agreement  
21 should incorporate those standards by reference.

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<sup>17</sup> WorldCom has proposed, furthermore, that in the event the Commission finds that the unilateral termination right is proper, the Commission should reject Verizon's proposed 30 day notice period. See Direct Testimony of John Trofimuk, Matt Harthun and Lisa Roscoe, 56.

1 **Q. What language has WorldCom proposed?**

2 A. WorldCom has proposed language that would require Verizon to perform its  
3 obligations under the Agreement in accordance with performance standards, metrics, and  
4 self-executing remedies established by the FCC, the state commission, or any  
5 governmental body of competent jurisdiction.

6

7 **Q. What is the substance of the Verizon Direct Testimony to which you are**  
8 **responding?**

9 A. Verizon argues that performance standards should not be incorporated into the  
10 Agreement because “they operate as a matter of law.”

11

12 **Q. What is WorldCom’s response to Verizon’s Direct Testimony?**

13 A. WorldCom does not understand Verizon’s position. To the extent Verizon means  
14 that the performance standards are applicable to the parties whether included in the  
15 Agreement or not, WorldCom rejects Verizon’s reasoning as utterly unpersuasive and  
16 insufficient to justify excluding performance standards from the Agreement. As we and  
17 other WorldCom witnesses have asserted elsewhere, the Agreement is intended to be a  
18 comprehensive explication of the terms and conditions related to “interconnection” under  
19 Section 251 and 252 of the Act. To exclude incorporation of performance standards  
20 because “they operate as a matter of law” belies the need to include many of the  
21 provisions to which the parties have already agreed to include in the Agreement.

22

1 **Q. What does WorldCom request of the Commission?**

2 A. WorldCom requests that the Commission order the inclusion into the  
3 Interconnection Agreement WorldCom's proposed Section 27.3.

4

5

**Issue V-15**

6

**(Sale of Exchanges)**

7 **Q. What is WorldCom's position on this issue?**

8 A. WorldCom adopts the testimony of AT&T on this issue. See Direct Testimony of  
9 L. Fredrik Cederqvist on Behalf of AT&T Communications of Virginia, Inc., et al., 6-8  
10 (August 17, 2001).

11

12

**Issue VI-1(N)**

13

**(Assurance of Payment)**

14 **Q. What is WorldCom's position on this issue?**

15 A. WorldCom objects to the inclusion of Verizon's proposed "Assurance of  
16 Payment" provision (Section 6) because, as a general matter, it is an onerous requirement  
17 that CLECs need not satisfy and because it confers too much authority to Verizon. At the  
18 very least, if an "Assurance of Payment" provision must be included, the Commission  
19 should ensure that the obligations under that provision are reciprocal, and not shouldered  
20 only by WorldCom.

1 **Q. What language has Verizon proposed on this issue?**

2 A. Verizon's proposed Section 6 would obligate WorldCom, upon request by  
3 Verizon, to provide Verizon with adequate assurance of payment of amounts due (or to  
4 become due) to Verizon. The provision would also give Verizon the right to suspend its  
5 performance obligations under the Agreement if WorldCom fails to take the precise  
6 assurance of payment measures set forth in Section 6.

7

8 **Q. What is the substance of the Verizon Direct Testimony to which you are**  
9 **responding?**

10 A. In its Direct Testimony addressing Issues VI-1(N), Verizon expressly concedes  
11 that this provision is unnecessary with respect to WorldCom, and that its concern is  
12 actually with other CLECs "that might adopt this interconnection agreement." Verizon  
13 GT&C Panel, 38.

14 Verizon asserts, moreover, that it would be willing to sign a letter exempting  
15 WorldCom from assurance of payment requirements, but that it has still not received a  
16 draft of such a letter from WorldCom. Verizon GT&C Panel, 38.

17

18 **Q. What is WorldCom's response to Verizon's Direct Testimony on Issue VI-**  
19 **1(N)?**

20 A. WorldCom objects to the inclusion of an "Assurance of Payment" provision in its  
21 Agreement with Verizon. Although WorldCom is aware of the concerns Verizon might  
22 have with other CLECs, WorldCom should not be made to agree to terms that, by all  
23 accounts, are inappropriate as to WorldCom.

1 With respect to the letter proposed by Verizon, WorldCom agreed to consider  
2 Verizon's offer in mediation, but upon further consideration of that offer has concerns  
3 about entering into "side arrangements" that are not part of the interconnection  
4 agreement. As an initial matter, WorldCom operates a number of affiliate and subsidiary  
5 companies that themselves may properly opt-in to the interconnection agreement that will  
6 result from this arbitration, and those subsidiaries and affiliates should not be subject to  
7 this unreasonable requirement. Such side arrangements also potentially lead to the  
8 discriminatory treatment of other CLECs. This arrangement is particularly problematic  
9 because there appears to be no logical basis for differentiating or discriminating between  
10 various CLECs in the application of this arrangement or waiver of this arrangement.

11

12 **Q. What does WorldCom request of the Commission?**

13 A. WorldCom requests that the Commission reject Verizon's proposed Sections 6. If  
14 the Commission believes that Verizon's proposed Section 6 should be included in the  
15 interconnection agreement, at a minimum, it should ensure that this section be made  
16 reciprocal.

17

18 **Issue VI-1(O)**

19 **(Default)**

20 **Q. What is WorldCom's position on this issue?**

21 A. WorldCom objects to the inclusion of Verizon's proposed Section 12. The  
22 Agreement should not contain a provision that would confer on any party the right to  
23 unilaterally suspend or terminate performance of its obligations under the Agreement if it

1 perceives a material breach by the other. As we explained in our Direct Testimony, the  
2 periodic service interruptions that would precipitate from a party's decision to suspend or  
3 terminate performance under the Agreement would adversely affect the parties and their  
4 customers. And, as proposed by Verizon, the provision would also permit Verizon to use  
5 a default regarding one service to justify terminating or suspending its performance in all  
6 other aspects of the Agreement. Again, this confers far too much authority on Verizon,  
7 an incumbent LEC that has little incentive to ensure that CLECs like WorldCom maintain  
8 good relationships with their customers. Instead, WorldCom proposes that all alleged  
9 uncured defaults be resolved on a case by case basis pursuant to the alternative dispute  
10 resolution process proposed in Issues IV-100 and IV-101.

11

12 **Q. What language has Verizon proposed on this issue?**

13 A. Verizon's proposed Section 12 would allow a party to (a) suspend the provision  
14 of any or all services under the Agreement or (b) cancel the Agreement and terminate the  
15 provision of all services if, 30 days after written notice of the breach has been received,  
16 the other party fails to make a payment required under the Agreement or if it breaches  
17 materially any material provision of the Agreement.

18

19 **Q. What is the substance of the Verizon Direct Testimony to which you are**  
20 **responding?**

21 A. As in its Direct Testimony of Issue VI-1(N), Verizon acknowledges that "its  
22 concerns are not with WorldCom, but with less financially stable CLECs." Verizon  
23 GT&C Panel, 39. Accordingly, it has expressed a willingness to "send to [alternative

1 dispute resolution] any dispute with a CLEC that has a net worth in excess of \$100  
2 million,” but, since it has not yet received a revision of Section 22.4 of the AT&T-  
3 Verizon language that would incorporate this concession, this issue has not yet been  
4 resolved. Verizon GT&C Panel,39.

5

6 **Q. What is WorldCom’s response to Verizon Direct Testimony on Issue VI-**  
7 **1(N)?**

8 A. WorldCom responds in the same way that it does for Issue VI-1(N): although  
9 WorldCom is mindful of the concerns Verizon might have with other CLECs, WorldCom  
10 should not be made to agree to terms that, by all accounts, are not appropriate for  
11 WorldCom. WorldCom has been attempting to work with Verizon to agree on a carve-  
12 out (i.e., the \$100 million exception outlined in Verizon’s testimony). Again, however,  
13 WorldCom must be able to ensure that all of its subsidiaries and affiliates will be able to  
14 take advantage of this agreement without being burdened by unreasonable requirements  
15 such as the proposed Default provisions. If a carve-out can be negotiated, WorldCom is  
16 willing to do so. If it cannot, however, it would be flatly inappropriate to include the  
17 “Default” provision proposed by Verizon.

18 As we explained in our Direct Testimony and above, this does not leave Verizon  
19 without recourse in the event of default. The parties may resolve all contractual disputes  
20 over alleged uncured default on a case by case basis pursuant to the alternative dispute  
21 resolution process proposed in Issues IV-100 and IV-101. This will allow a third party  
22 decision-maker to assess the impact of service suspension or termination on customers,  
23 and avoids the drastic measures that Verizon’s proposal would allow.

1 **Q. What does WorldCom request of this Commission on this issue?**

2 A. WorldCom requests that the Commission reject Verizon’s proposed Section 12 as  
3 well as their undeveloped modification of Section 22.4 of the AT&T-Verizon agreement.  
4 In the event the Commission finds that the Agreement should contain a default provision,  
5 however, WorldCom requests that the Commission order that uncured defaults be  
6 resolved pursuant to the alternative dispute resolution procedures proposed in  
7 WorldCom’s Issues IV-100 and IV-101, or order into the Interconnection Agreement the  
8 inclusion of the alternative default provision that we proposed in our Direct Testimony.

9

10 **Issue VI-1(R)**

11 **(References)**

12 **Q. What is WorldCom’s position on this issue?**

13 A. WorldCom agrees that the Interconnection Agreement would benefit from a  
14 provision that defines the references made to other provisions within the Agreement  
15 (including Sections, Appendices and Exhibits) and to sources and authorities outside of it  
16 (including Tariffs, other agreements, technical guides and laws). However, WorldCom  
17 objects to the inclusion of a provision that would define the references to sources outside  
18 of the Agreement to include subsequent amendments and supplements to those sources  
19 when Verizon has control over those sources because it would allow the specific terms  
20 over which the parties have negotiated to be materially altered by unknown future  
21 changes. WorldCom, instead, proposes a modification of Verizon’s language that would  
22 provide that the references to outside sources are references to those sources as they  
23 existed on “the Effective Date of the interconnection agreement.” See Direct Testimony

1 of John Trofimuk, Matt Harthun and Lisa Roscoe, 67. Like its position on the change-in-  
2 law provision, WorldCom firmly believes that a provision like the one proposed by  
3 Verizon here would allow Verizon to change the terms of the Agreement unilaterally  
4 without consideration of the terms and conditions to which the parties have mutually  
5 agreed. At the very least, the parties should reconcile their oft-diverging interpretations  
6 of new laws, and negotiate on a mutually acceptable amendment to the Agreement.

7

8 **Q. What language has Verizon proposed on this issue?**

9 A. Verizon has proposed two provisions on this issue. The first, Section 35.1, would  
10 define the references made to other provisions with the Agreement (including Sections,  
11 Appendices and Exhibits) and to sources and authorities outside of it (including Tariffs,  
12 other agreements, technical guides and laws). The second, Section 35.2, would define the  
13 references to sources outside of the Agreement to include unknown and yet-to-be decided  
14 amendments and supplements to those sources.

15

16 **Q. What is the substance of the Verizon Direct Testimony to which you are**  
17 **responding?**

18 A. Verizon essentially argues that the “policies and practices” articulated in the  
19 Agreement should not remain fixed or “stagnant.” Moreover, in response to concerns  
20 raised by WorldCom (here and in the discussion of the change-in-law provision) that  
21 Verizon will be able to change the terms of the Agreement unilaterally, Verizon flatly  
22 asserts that, since the parties can litigate the issue before the appropriate state  
23 commission, Verizon does not act unilaterally when it files a tariff change.

1 **Q. What is WorldCom’s response to Verizon’s Direct Testimony on Issue VI-**  
2 **1(R)?**

3 A. WorldCom does not argue that the “policies or practices” or terms and conditions  
4 of the Agreement should remain fixed. Indeed, as we make clear here and elsewhere, the  
5 Agreement should provide for a process that would allow the parties to assimilate  
6 changes in the law and other authorities mutually and promptly into the Agreement. In  
7 our Direct and Rebuttal Testimony of the change-in-law provision, we also make clear  
8 that it is incorrect to assert that when the parties litigate a proposed tariff before a  
9 commission, the issue has been resolved mutually. It is our experience that when  
10 Verizon submits a tariff to a commission, it does so of its own choosing without  
11 consultation with WorldCom or other CLECs. WorldCom and other CLECs are forced to  
12 engage the issue on Verizon’s terms. That is not mutual agreement.

13 Moreover, it is important to note that in this section Verizon does not refer only to  
14 tariffs. It also would allow unilateral modification of any “technical or other document  
15 (including Verizon or third party guides, practices, or handbooks).” Thus, under  
16 Verizon’s proposal, changes could be made unilaterally, by any number of parties, to any  
17 document referenced, and WorldCom would be bound by such changes, whether or not  
18 WorldCom even knew about such changes, much less whether WorldCom had the ability  
19 to contest them.

20 Again, it is not in either parties’ interest to hold the contract stagnant when  
21 changes are appropriate. WorldCom simply believes that it is appropriate for it to be  
22 notified of any potential change and, if it believes that such a change is inappropriate, to

1 be allowed to dispute it. It is entirely unreasonable for Verizon to be able to unilaterally  
2 impose alterations on WorldCom.

3

4 **Q. What does WorldCom request of the Commission?**

5 A. Consistent with the concerns raised here, WorldCom requests that the  
6 Commission reject the objectionable language in Section 35.2 and replace it with the  
7 phrase “as of the Effective Date of the interconnection agreement.”

8

9 **Q. Does that conclude your testimony?**

10 A. Yes.

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION**

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 )

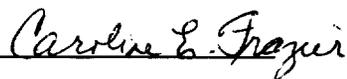
**AFFIDAVIT OF JOHN TROFIMUK AND MATT HARTHUN  
AND LISA ROSCOE**

The undersigned, being of lawful age and duly sworn on oath, certifies the following:

I, Matt Harthun, declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

  
\_\_\_\_\_  
Matt Harthun

Subscribed and Sworn to before me this  
5<sup>th</sup> day of September, 2001.

  
\_\_\_\_\_  
Caroline E. Frazer

Notary Public

**MY COMMISSION EXPIRES  
JUNE 14, 2004**

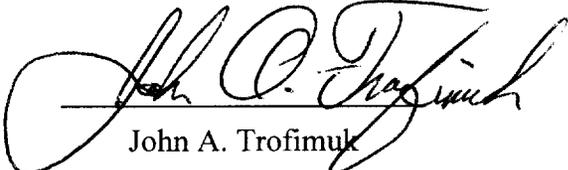
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Regarding Interconnection Disputes )  
with Verizon-Virginia, Inc., and for )  
Expedited Arbitration )

**AFFIDAVIT OF JOHN TROFIMUK AND MATT HARTHUN  
AND LISA ROSCOE**

The undersigned, being of lawful age and duly sworn on oath, certifies the following:

I, John A. Trofimuk, declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

  
John A. Trofimuk

Subscribed and Sworn to before me this  
*31st* day of August, 2001.

  
Notary Public



**BEFORE THE  
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**AFFIDAVIT OF JOHN TROFIMUK AND MATT HARTHUN  
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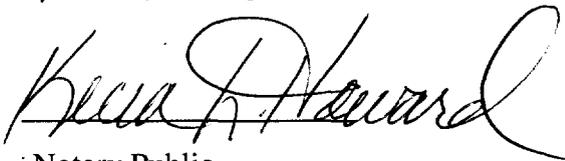
The undersigned, being of lawful age and duly sworn on oath, certifies the following:

I, Lisa Roscoe, declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.



Lisa Roscoe

Subscribed and Sworn to before me this  
4<sup>th</sup> day of September, 2001.



Notary Public

**Kecia L. Howard  
Notary Public  
Commonwealth of Virginia  
My Commission Expires Aug. 31, 2003**