II. NETWORK ARCHITECTURE

The language Verizon VA proposes on the disputed network architecture issues preserves for the CLECs their freedom to make their own network design choices but recognizes that with this freedom comes responsibility. That responsibility is for the costs caused by the CLECs' freedom of choice. The CLECs must accept responsibility for the costs they cause, and should not be able to have Verizon VA bear these costs and subsidize the CLECs' network design. These are not costs that Verizon VA would otherwise incur.

The contract language Verizon VA proposes on the disputed network architecture issues reflects Verizon VA's position -- consistent with applicable law -- that (1) the CLECs may interconnect with Verizon VA's existing network, (2) the CLECs may exercise legitimate choices about how they will interconnect, and (3) the CLECs are responsible for the costs caused by how they choose to interconnect. The CLEC proposals are not always consistent with these principles. For this reason, as explained fully below, Verizon VA asks this Commission to adopt its proposed language.

I. INTERCONNECTION CHOICES (Issues I-1, I-2, I-3, VII-1, VII-3, VII-4, VII-5)

Verizon VA's VGRIP proposal, which Verizon VA has offered to all three petitioners, represents the most reasonable solution to the operational and cost issues caused by the CLECs' chosen interconnection choices. Since the passage of the Act, a Verizon VA customer may originate a call to a CLEC customer in the same local calling area, but the call will most likely leave the local calling area before reaching the CLEC customer. Verizon VA must carry that call to the CLEC's chosen point of interconnection, which frequently will be outside the originating local calling area, and must incur the added costs of carrying the call to that point. AT&T witness Talbott admitted that the added cost incurred by Verizon VA as a result of a CLEC's choice of its network design "is the cost to deliver the traffic to the AT&T point of interconnection." Tr. at 980, 987. But, the CLECs do not want to pay for these costs that they directly cause as a result of their interconnection decisions. Instead, the CLECs want Verizon VA to subsidize this entry: "[t]hat's the costs of competition . . . in order to interconnect with other LECs in the marketplace [Verizon] needs to deliver its traffic . . . and Verizon needs to bear the expense to allow . . . competition to occur." Tr. at 983-84 (AT&T witness Talbott). As a matter of law, this position is simply incorrect.[1]

The CLECs further maximize Verizon VA's costs of interconnection when they do not return a call originated by a Verizon VA customer to the local calling area from which it originated. This would occur when a CLEC terminates a Verizon VA-originated call to a customer who utilizes the CLEC's "Virtual FX" service. Many of these CLEC customers are internet service providers ("ISPs"). For example, suppose a CLEC assigns a telephone number, a NPA-NXX, to one of its customers that is associated to a particular rate center or local calling

[1] *See* § 252(d)(1)(A).

area -- local calling area "A." Nevertheless, this customer is not physically located in local calling area "A." Instead, the customer is physically located in local calling area "B." This is a simple explanation of the Virtual FX Service.

Further assume that a Verizon customer in local calling area "A" places a call to the CLEC customer whose NPA-NXX indicates that the customer is also located in local calling area "A," but the CLEC customer is actually located in local calling area "B." Moreover, presume that the CLEC also chooses to locate its POI in local calling area "B." Under this scenario, Verizon VA must not only incur the cost of transporting the call to local calling area "B," but it must also pay the CLEC reciprocal compensation for a call that is routed from one local calling area, "A," to a separate local calling area, "B." In essence, this is a toll call that is disguised as a "local" call. Because this call is considered a "local" call, Verizon VA pays the applicable reciprocal compensation charges instead of receiving originating access for what is really an intraLATA toll call.[2]

In addition, pursuant to the CLECs' proposals illustrated by this example, Verizon VA's transport obligation extends beyond the local calling area from which the call originated. That is, Verizon VA does not receive toll call revenue, must incur the expense of hauling the traffic outside of the local calling area, and also must pay the CLEC reciprocal compensation for the transport and termination of the call to the CLEC end user customer. Moreover, under AT&T's and WorldCom's proposal, Verizon VA would pay reciprocal compensation at the tandem rate to the CLEC. The CLECs are more than compensated for their transport and termination obligation by receiving reciprocal compensation from Verizon VA. Verizon VA is not compensated for the

[2] Verizon discussed a similar example in its pre-filed direct and rebuttal testimony on non-mediation issues. Verizon Ex. 4 at 7-8; Verizon Ex. 18 at 3.

expense of hauling its traffic outside the local calling area. The CLECs are in almost uniform agreement that Verizon VA must be financially responsible for all these incremental costs caused directly by the CLECs' interconnection and how they have chosen to implement that interconnection.

Essentially, the CLECs' proposals on this issue transfer virtually all the costs of interconnection to Verizon VA, resulting in a subsidy to the CLECs. Because of this, the Commission can and should consider the additional transport obligations that Verizon VA must bear as a result of the CLECs' interconnection decisions.[3] This is exactly what the Third Circuit recently held in *MCI Telecommunications Corp. v. Bell Atlantic Pennsylvania.*[4] The Third Circuit stated:

> To the extent . . . that WorldCom's decision on interconnection points may prove more expensive to Verizon, the PUC [Pennsylvania Public Utilities Commission] should consider shifting costs to WorldCom. *See* 11 F.C.C.R. 15499 ¶ 209.[5]

These additional transport obligations did not exist prior to the Act and would not exist but for the CLECs' decision on how to interconnect. Verizon VA's VGRIP proposal is a reasonable attempt to address the additional interconnection obligations caused by the CLECs' desired, but inefficient, methods of interconnection. Tr. 1068-69.

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[3] *See U.S. West Communications, Inc. v. AT&T Communications, Inc.*, 31 F. Supp. 2d 839, 853 n.8 (D. Or. 1998).

[4] Nos. 00-2257 and 00-2258, 2001 U.S. App. WL 1381590, at *21 (3rd Cir. Nov. 2, 2001).

[5] *Id.* at *21.

A. Verizon VA's VGRIP Proposal Is Fair To The CLECs While More Equitably Allocating The Costs Caused By the CLECs' Interconnection Decisions. (Issues I-1, I-2, and VII-4).

From Verizon VA's perspective, the crux of the interconnection issue is whether the CLECs are financially responsible for the additional costs of their inefficient interconnection decisions. Pursuant to § 251(c)(2) of the Act, Verizon VA must interconnect with each CLEC who requests it. Congress made this decision for Verizon VA, who satisfies its interconnection responsibilities by permitting Cox, WorldCom, and AT&T to interconnect with Verizon VA's existing network at any technically feasible point "that is at least equal in quality to that provided by the local exchange carrier to itself, . . . or any other party to which the carrier provides interconnection."[6]

Verizon VA does not dispute that the CLECs can determine where they will physically interconnect with Verizon VA, but this does not give them the authority to decide unilaterally how the costs associated with that determination will be allocated between the individual CLEC and Verizon VA for the transport of Verizon VA-originated traffic to that distant point of interconnection. In this proceeding, the CLECs' proposals require Verizon VA to deliver reciprocal compensation traffic to the CLECs' network, typically the CLECs' switch, and assume all the financial obligations associated with the transport of that traffic.[7] Verizon VA's VGRIP proposal more equitably deals with the allocation of those costs.

Pursuant to VGRIP, Verizon VA provides Cox, AT&T, and WorldCom with choices. For instance, they have the option to connect physically to Verizon VA's network at only one

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[6] 47 U.S.C. §§ 251(c)(2)(B), (C).

[7] WorldCom's proposed contract language, Attachment IV § 1.1, for Issue I-1 does not even speak to this issue. This proposal makes no mention of the parties' financial responsibility. For this reason alone, the Commission should reject WorldCom's proposal.

point in order to exchange telecommunications traffic. Verizon refers to this point as the point of interconnection ("POI") -- this is the place where the "physical wires [of the two carriers] meet." Tr. at 1380. Nevertheless, to ensure that Verizon VA does not bear all the costs resulting from the CLECs' decision to establish only one POI in a LATA, Verizon VA should be able to differentiate between that POI and an "Interconnection Point" or "IP," which identifies the point on the network where financial responsibility for the call changes hands. Verizon Ex. 4 at 4-5.

That IP may be at several different locations. First, the CLEC could accept Verizon VA's originated traffic at a collocation arrangement at a Verizon tandem wire center in a multi-tandem LATA. For instance, pursuant to Verizon VA's § 4.1.3.2 in its proposed contract to AT&T, Verizon VA may request that AT&T, as the receiving party, establish an IP at this collocation site. Verizon VA offered the same provision to WorldCom in § 7.1.1.2 of the proposed WorldCom agreement, and to Cox in § 4.2.2.2 of the proposed Cox agreement. This IP may very well be outside the originating calling area, but Verizon VA, pursuant to VGRIP, is willing to absorb some of the additional costs for transporting the call to that tandem. This is a significant compromise for Verizon VA. Tr. at 1246.

Once Verizon VA delivers this traffic to the CLEC collocation arrangement, the CLEC becomes financially responsible to deliver this traffic to its switch. To do so, the CLEC can purchase transport from Verizon VA, self-provision the transport to its switch, or purchase transport from a third-party. Verizon Ex. 4 at 12-13. If AT&T, for example, purchased transport from Verizon VA to deliver this traffic from AT&T's collocation arrangement at the Verizon VA tandem wire center back to its switch, it could do so pursuant to § 11.5 of the parties' UNE IOF provisions.

Under option two of VGRIP, if the CLEC decides to collocate at a Verizon VA end office wire center, Verizon VA may request that this collocation site act as the IP for the local calling area where that end office is located. This is the point where financial responsibility for the call transfers. In this scenario, the transport options for the CLEC remain the same as when the IP is at the collocation arrangement at the tandem. Whether the IP is at the Verizon VA tandem or at an end office, Verizon VA's VGRIP proposal allows the CLEC to establish only one POI on Verizon VA's network in the LATA, but more equitably allocates the costs that Verizon VA must bear based on the CLECs' decision to place only one POI in the LATA. Tr. at 1333; Verizon Ex. 4 at 11-13.

Under a third VGRIP option, if the CLEC chooses not to establish an IP at the Verizon VA tandem or at the Verizon VA end office at which the CLEC collocates, Verizon VA proposes that the end office serving the Verizon VA customer who places the call act as the "virtual IP." For example, assume a Verizon VA customer originates a call to a Cox customer with a NPA-NXX that is associated with the same local calling area as the Verizon VA customer. Further assume that Cox chooses not to collocate at the Verizon VA end office or tandem. Thus, pursuant to Verizon VA's proposed § 4.2.2 to Cox, Cox may choose to refuse to establish an IP at this end office. Section 4.2.2.1 provides that Verizon VA will then transport this traffic from the Verizon VA customer to the POI, wherever that switch may be located in the LATA. Recognizing that Verizon VA must incur additional transport obligations resulting from Cox's interconnection choice, Verizon VA's position is that Cox should only charge Verizon VA reciprocal compensation at the call termination end office rate less the monthly recurring rate for the UNE IOF transport of that call. Tr. at 1351.

In each of these scenarios, the CLEC retains its right to locate its POI at any technically feasible point on Verizon VA's network in the LATA, has a choice about where the IP is located, and bears only a portion of the additional costs it causes as a result of its interconnection decision. In short, VGRIP represents a very fair proposal to address the consequences of each CLEC's own interconnection choices.

B. Verizon VA's VGRIP Proposal Is Consistent With This Commission's Rules. (Issues I-1, I-2, and VII-4).

Not only is Verizon VA's VGRIP proposal fair to all the parties, VGRIP is also consistent with the Commission's own rules on interconnection. The Verizon VA proposal permits the CLECs to interconnect physically with Verizon VA at one point but acknowledges that because of the CLECs' own choices, they must bear some portion of the costs they directly cause associated with the exchange of § 251(b)(5) traffic. The Commission made clear that the CLECs are responsible for such costs in the *Local Competition Order*, in which the Commission extensively discussed the ILECs' and CLECs' obligations with respect to interconnection. The Commission held that while the

> 1996 Act bars consideration of costs in determining 'technically feasible' points of interconnection or access . . . a **requesting carrier** that wishes a 'technically feasible' but expensive interconnection would, pursuant to section 252(d)(1), **be required to bear the cost of that interconnection**, including a reasonable profit.[8]

Moreover, as the Eighth Circuit has held, the CLECs are only entitled to interconnect with "an incumbent LEC's existing network--not to a yet unbuilt superior one."[9]

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[8] *Local Competition Order* ¶ 199.

[9] *Iowa Utilities Bd. II*, 219 F.3d 744, 757-58.

According to their own proposals, the CLECs wish to interconnect with Verizon VA using "emerging technologies and new emerging network architectures" at only one point, at least for now, on Verizon VA's network in a LATA.[10] Cox, AT&T, and WorldCom are free to do so but, as this Commission decided in the *Local Competition Order*, they must "bear the cost of that interconnection."[11] That cost is the additional transport Verizon VA must provide in order to deliver Verizon VA's traffic to the one point in a LATA where the CLECs choose to interconnect. VGRIP reasonably allocates these additional costs consistent with how the *Local Competition Order* says those costs should be allocated. That said, and as noted above, under Verizon VA's VGRIP proposal, Verizon VA is not asking the CLECs to pay for all the additional costs that they directly cause but, rather, only a portion thereof (*i.e.*, in the typical case, the CLEC would be responsible for Verizon VA originating traffic only once Verizon VA delivers it to the tandem wire center), with Verizon VA agreeing to be responsible for a portion as well (*i.e.*, again in the typical case, delivery of Verizon VA originating traffic from the local calling area to the tandem wire center, which often is in another local calling area).

VGRIP also promotes economically efficient decisions regarding interconnection, consistent with the Commission's admonitions in the *Local Competition Order*:

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[10] Tr. at 953 (AT&T witness Talbott); *see also* WorldCom Exhibit 3 at 4-5 ("WorldCom's local network employs state-of-the-art equipment and design principles based on the technology available today, particularly optical fiber rings utilizing SONET transmission . . . WorldCom is able to serve such large geographic areas via its extensive transport network and bears the costs of that owned network."). Incidentally, AT&T witness Talbott testified that "wherever you have a concentration of customers, it is often more efficient to move the POI closer to that concentration of customers." Tr. at 1013. It appears that the CLECs, or at least AT&T, would abandon its "fewer switches/longer loops" model once it has more customers. Thus, the new entrant's network would resemble Verizon's once it becomes "efficient" for the CLEC.

[11] *Local Competition Order* ¶ 199.

> because competing carriers must usually compensate incumbent LECs for the additional costs incurred by providing interconnection, competitors have an incentive to make economically efficient decisions about where to interconnect.[12]

By allocating the incremental interconnection costs, VGRIP promotes this economic efficiency. If the CLECs wish to pursue the one POI per LATA option, albeit an inefficient decision, that is their choice. The CLECs' proposals, however, remove any incentive for economic efficiency in making that decision because those proposals allow the CLECs to avoid any additional costs associated with their interconnection decisions. Verizon VA's VGRIP proposal, however, preserves their one POI per LATA option and holds the CLECs financially responsible for making that choice.

Not only is Verizon VA's proposal consistent with the Commission's rules, it is consistent with the Act. Verizon VA must comply with § 251(b)(5) of the Act by offering terms and conditions for reciprocal compensation that are just and reasonable.[13] Specifically, § 252(d)(2)(A) of the Act provides:

> For the purposes of compliance by an incumbent local exchange carrier with section 251(b)(5), a State commission shall not consider the terms and conditions for reciprocal compensation to be just and reasonable unless–
>
> (i) such terms and conditions provide for the **mutual and reciprocal** recovery by each carrier of costs associated with the transport and termination on each carrier's network facilities of calls that originate on the network facilities of the other carrier; and
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> (ii) such terms and conditions determine such costs on the basis of a reasonable approximation of the additional costs of terminating such calls.[14]

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[12] *Local Competition Order* ¶ 209.

[13] *See* 47 U.S.C. § 252(d)(2)(A).

[14] 47 U.S.C. § 252(d)(2)(A)(i)-(ii) (emphasis added).

VGRIP is consistent with this provision because its cornerstone is to provide a mutuality of obligations associated with § 251(b)(5) traffic. The CLECs' proposals, however, provide no reciprocity or mutuality of obligations. For instance, AT&T proposes that the originating party compensate the terminating party "for any transport that is used to carry [reciprocal compensation traffic] between the POI and a distant switch serving the terminating end user"[15] and Verizon VA will interconnect with AT&T to deliver Verizon VA originated traffic "at each respective AT&T Switch serving the terminating AT&T end user."[16] In some circumstances, AT&T's switch could be located at the other end of the LATA. However, under AT&T's proposals, it may interconnect with Verizon VA, at AT&T's option, anywhere on the Verizon VA "network, including, without limitation, Tandems, End Offices, outside plant facilities, and customer premises."[17] Contrast Verizon VA's "choice" with AT&T's unlimited ability to interconnect anywhere on Verizon VA's network and it is clear that Verizon VA really has no choices. When read together the proposed AT&T language eviscerates the Commission's rules and the Act's mutuality requirements for reciprocal compensation traffic.

This Commission, under the Act, can "offset" the obligations of the carriers. Section 252(d)(2)(A) does not:

> (i) preclude arrangements that afford the **mutual** recovery of costs through the offsetting of reciprocal obligations, including arrangements that waive mutual recovery (such as bill-and-keep arrangements); . . . .[18]

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[15] AT&T proposed interconnection agreement, Schedule 4, Part A, § 1.5.

[16] *Id.* at Schedule 4, Part A, § 1.3.

[17] *Id.* at Schedule 4, Part A, § 1.1.

[18] *Id.* at § 252(d)(2)(B)(i) (emphasis added).

Verizon VA's VGRIP proposal, as discussed above, implements an "offset" that allows for the "mutual recovery of costs." This occurs when the CLEC chooses not to locate an IP at the Verizon VA tandem or end office where the CLEC collocates and Verizon VA pays reciprocal compensation at the call termination rate less the monthly recurring rate for the UNE IOF transport of that call.

Because one of the main assumptions underlying the reciprocal compensation regime is the "reciprocal" nature of each parties' transport obligation, if one party has a significantly greater transport obligation than the other for § 251(b)(5) traffic then reciprocal compensation is not working. This is what occurs under the CLECs' proposals. Recently, several state commissions considered this very issue and adopted proposals similar to Verizon VA's VGRIP proposal and rejected positions similar to those offered in this proceeding by the CLECs. For example, the South Carolina Public Service Commission ("South Carolina PSC") recently held:[19]

> . . . The dispute between AT&T and BellSouth arises when a call originates on BellSouth's network in a local calling area outside the local calling area where the POI [AT&T's Point of Interconnection] is located. AT&T and BellSouth cannot agree on who should pay for the facilities necessary to get from BellSouth's customer in one local calling area to AT&T's POI in another local calling area. BellSouth asserts that these facilities are the responsibility of AT&T. Conversely, AT&T maintains that BellSouth is responsible for collecting all of the originating BellSouth local traffic, wherever that may be, and transporting that traffic at no cost to AT&T to AT&T's POI.
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> * * *
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> The central theme, embedded in AT&T's principles of "equivalent interconnection," is that the carrier terminating the traffic gets to determine where the originating carrier will deliver the traffic. This is the practical impact of allowing AT&T to designate the number of points of interconnection and

[19] South Carolina Public Service Commission, *Petition of AT&T Communications of the Southern States, Inc., for Arbitration of Certain Terms and Conditions of a Proposed Interconnection Agreement with BellSouth Telecommunications, Inc. Pursuant to 47 U.S.C. Section 252*, Docket No. 2000-527-C, Order on Arbitration, Order No. 2001-079 (January 30, 2001), at 19, 22-28.

requiring BellSouth to be financially responsible for delivering calls to those points of interconnection.

Our review of the FCC's orders does not suggest that a CLEC is free to transfer the costs incurred by its interconnection choices onto the ILEC. In the *Local Competition Order* the FCC specifically stated that "a requesting carrier that wishes a 'technically feasible' but expensive interconnection would, pursuant to section 252(d)(1), be required to bear the cost of that interconnection, including a reasonable profit."[20]

Part of AT&T's argument is that adopting BellSouth's proposal would force AT&T to build facilities to every BellSouth local calling area, and would waste valuable and limited collocation space. That is absolutely inaccurate. As noted earlier, BellSouth acknowledges that AT&T can establish a physical point of interconnection with BellSouth at any technically feasible point, and if AT&T chooses to have only a single such point in a LATA, that is AT&T's choice. AT&T can, however, lease facilities from BellSouth or any other entity to collect traffic from local calling areas outside of the local calling area in which its POI is found. Nothing in BellSouth's proposed solution to this issue would require AT&T to build facilities devoted to local service in South Carolina beyond that required to establish a single point of interconnection in each LATA that AT&T chooses to serve.

Indeed, when viewing the equities of the situation, it is clear that BellSouth's position that AT&T should be financially responsible for these facilities is the equitable position. AT&T presently interconnects with almost every end office and certainly every access tandem in BellSouth's territory. Nevertheless, it has elected to build only a single, or at the most two, points of interconnection in each LATA. The result, if AT&T prevails on this issue, is that AT&T will have succeeded in requiring BellSouth to subsidize AT&T's entry into the local exchange market in South Carolina. As additional AT&T traffic is routed over these facilities, then BellSouth is responsible for maintaining sufficient facilities to meet acceptable service quality levels. AT&T should be responsible for its portion of the traffic utilizing the facilities. Requiring AT&T to pay for the costs of its interconnection choices to offset the costs imposed by those interconnection choices on BellSouth is the fair and equitable solution. AT&T's interconnection choices requires the transport of local calls from one local calling area to another local calling area where AT&T's POI is located. As AT&T has contributed to the need and costs of these facilities, AT&T should pay for use of the facilities.

* * *

In resolving this issue, the Commission concludes that while AT&T can have a single POI in a LATA if it chooses, AT&T shall remain responsible to pay for the

[20] *Local Competition Order* ¶ 199.

> facilities necessary to carry calls from distant local calling areas to that single POI. That is the fair and equitable result.

The North Carolina Utilities Commission ("NCUC") reached a similar result in another arbitration proceeding involving AT&T.[21] In the *NC (AT&T/BellSouth) Arbitration Order*, the NCUC held that

> if AT&T interconnects at points within the LATA but outside of BellSouth's local calling area from which traffic originates, AT&T should be required to compensate BellSouth for, or otherwise be responsible for, transport beyond the local calling area. The Commission further concludes that this holding does not violate any FCC rules or case law and that it is equitable and in the public interest.[22]

In reaching this conclusion, the NCUC determined that AT&T's proposal would in effect "require BellSouth to absorb the cost of a significant portion of AT&T's local network at no cost to AT&T."[23] Further, the NCUC held that "it would be inequitable to allow AT&T to choose POIs that minimize its costs while ignoring the effect of such a choice on BellSouth."[24] This is the same "inequitable result" that AT&T, WorldCom, and Cox wish to achieve in this proceeding.

In several other recent state arbitration proceedings between Verizon and other carriers, the state commissions recognized that Verizon raised valid and legitimate concerns about the CLECs' interconnection decisions and the ramifications of those decisions on Verizon. In an arbitration proceeding involving AT&T and Verizon, the New York Public Service Commission ("New York PSC") retained the status quo, for now, between the parties instead of implementing Verizon's VGRIP proposal. Nevertheless, the New York PSC concluded that "Verizon raises a

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[21] *See NC (AT&T/BellSouth) Arbitration Order* at 7-15.

[22] *NC (AT&T/BellSouth) Arbitration Order* at 15.

[23] *Id.* at 9.

[24] *Id.*

legitimate issue . . . ."[25] In reaching its decision, the New York PSC surmised that Verizon developed VGRIP because of the CLECs' "treatment" of ISP calls by using virtual NXXs. While the New York PSC retained the previous arrangement between the two carriers instead of adopting VGRIP, the Commission took a "wait and see" approach to find out if this Commission's and the New York PSC's ISP and virtual NXX rules satisfy Verizon's concerns.[26]

In addition, the Maryland Public Service Commission ("Maryland PSC") determined that competitive carriers must establish at least one POI per Verizon tandem serving area when that carrier terminates calls to local end user customers in that serving area.[27] Even with this rule in place, the Maryland PSC recognized recently that "distantly located points of interconnection could result in high costs" to Verizon.[28] The Pennsylvania Public Utilities Commission ("Pennsylvania PUC") also reached a similar conclusion.[29] In doing so, however, both Commissions adopted a Sprint-offered compromise. The Sprint compromise required the establishment of additional interconnection locations once traffic reaches certain volumes (8.9 million minutes per month or a DS-3 equivalent) and distances (greater than 20 miles and not in a local calling area). The Maryland PSC and Pennsylvania PUC also held that Sprint must establish new facilities within a reasonable proximity of Verizon's switching centers.[30]

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[25] *NY (AT&T/Verizon) Arbitration Order* at 25-26.

[26] *See id.*

[27] *See In re MFS Intelenet of Maryland, Inc.*, 86 Md. PSC 467, 493, Case No. 8584, Phase II, Order No. 72348 (1995).

[28] *MD (Sprint/Verizon) Arbitration Order* at 29.

[29] *See PA (Sprint/Verizon) Arbitration Order*, at 52-56.

[30] *See id.* (clarifying that any new Sprint facility be established within five miles of Verizon's switching center).

Although the state commissions in New York, Pennsylvania, and Maryland did not adopt Verizon's VGRIP proposal, they recognized that Verizon raised legitimate concerns regarding the interplay of the CLECs' decision to locate one POI per LATA and the associated transport costs borne by Verizon. These are the same concerns recognized recently by the Third Circuit when it stated that if WorldCom's interconnection decisions proved more expensive to Verizon, then the Pennsylvania PUC should consider shifting costs to WorldCom.[31] In this proceeding, Verizon VA proposed a slightly modified version of VGRIP than that considered in New York, Pennsylvania, and Maryland. This clarification, which allows the CLECs to designate only one IP per local calling area, makes the VGRIP proposal even more favorable to the CLECs and attempts to strike the right balance between locating one POI in a LATA and the additional transport costs borne by Verizon VA as a result of that choice. Accordingly, Verizon VA asks this Commission to recognize the interconnection inequities presented by the CLECs' proposals, as the commissions did in New York, Pennsylvania, and Maryland, and follow the lead of the commissions in North and South Carolina to address these inequities squarely. Adopting Verizon VA's VGRIP proposal will most certainly address these inequities, and represents the best accommodation of the rights of both the incumbent and the competitors.

C. If The Commission Does Not Adopt VGRIP, The Commission Should Not Allow The CLECs To Charge Verizon VA Distance Sensitive Rates For Transport. (Issues I-2, I-3, and VII-5).

If the Commission does not accept Verizon VA's VGRIP proposal at this time, the Commission should permit Verizon VA to address its legitimate transport concerns by preventing the CLECs from charging Verizon VA distance sensitive rates for transport.

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[31] *MCI Telecommunications Corp.*, at *21.

(1) The CLECs Should Not Be Permitted To Charge Verizon VA Distance Sensitive Rates For Transport. (Issues I-2 and VII-5).

If the Commission does not adopt Verizon VA's VGRIP proposal, the CLECs should not be permitted to charge Verizon VA distance sensitive rates for the transport Verizon VA must purchase from the CLEC to get to the CLEC switch. As Verizon VA witness D'Amico explained:

> . . . if we [Verizon VA] don't have an option to drop our traffic off at your [the CLEC's] IP, then in effect we always have to buy transport. And so reasonable rates for facilities becomes more important.

Tr. at 1257.

Limiting the CLECs to non-distance sensitive rate elements for transport prevents a CLEC from charging Verizon VA excessive transport rates when Verizon VA delivers its originating traffic to a distant CLEC POI. In essence, this contract proposal,[32] like the collocation situation described above, is a reasonable "control mechanism" for Verizon VA. Tr. at 1255. It protects Verizon VA from being penalized in the event Verizon VA does not have VGRIP and a CLEC chooses to locate one POI in a LATA. Tr. at 1255.

For example, suppose a CLEC selects a POI 87 miles from a Verizon VA end office serving a Verizon VA local end user customer. Because the CLEC does not permit Verizon VA to collocate at the CLEC's facilities, and if Verizon VA cannot self-provision to that CLEC switch, then Verizon VA would have to purchase transport from the CLEC to get to the CLEC's switch. Under the current arrangement between the parties and consistent with the CLECs' proposals, because Verizon VA does not have VGRIP and it cannot limit the CLEC's transport

[32] To Cox, Verizon's proposed contract language may be found in Exhibit 84 §§ 4.3.8 and 4.5.3; to WorldCom, in Exhibit 83 § 2.1.3.5.1 of the Interconnection Attachment; and to AT&T, in Exhibit 85 § 4.2.7.

charges to Verizon VA to non-distance sensitive rate elements, the CLEC is free to charge Verizon VA for this transport using mileage sensitive rates. Tr. at 1026-28; Verizon Ex. 4 at 17-18. This example illustrates how the lack of interconnection choices for Verizon VA coupled with the CLECs' ability to choose whatever interconnection methods it desires without concern for the ramifications of those decisions on Verizon VA could improperly maximize Verizon VA's costs.[33]

Verizon VA has raised legitimate concerns about the costs of interconnection when a CLEC chooses to locate a single POI on Verizon VA's network. VGRIP is one way by which Verizon VA attempts to address those concerns in a reasonable and equitable manner. If Verizon VA does not have VGRIP, it is especially important that Verizon VA be able to limit the interconnection costs that the CLECs can force upon Verizon VA. In the absence of VGRIP, Verizon VA's positions and corresponding contract language with respect to Issues I-2, I-3, and VII-5 appropriately (but not fully) limit those costs and prevent the CLECs from penalizing Verizon VA in the event they choose to locate one POI in a LATA.

(2) Verizon VA Should Have Comparable Choices To Interconnect With The CLECs By Collocating At Their Premises. (Issue I-3).

Verizon VA proposed contract language to each CLEC that would give it the option to collocate at their facilities. The CLECs, however, refuse to grant Verizon VA this option, even though Verizon VA offers it to them. Instead, the CLECs contend that they are under no legal obligation to provide Verizon VA with collocation at their premises and will not propose contract language that gives Verizon VA the option to do so. Tr. at 1030-32; WorldCom Ex. 5 at

[33] In addition, if the Commission allows the CLECs to choose unilaterally the mid-span meet location, the interconnection costs to Verizon may multiply exponentially. *See* Verizon VA discussion on mid-span meets at § III.

4. Verizon VA's position is that the CLECs, in essence, have a choice. They can voluntarily allow Verizon VA to collocate at their facilities, but if they do not they should be allowed to charge distance sensitive rates for transport.

Verizon VA recognizes that § 251(c)(6) applies to the ILECs, and not the CLECs. Nothing in the Act, however, prohibits the Commission from allowing Verizon VA to interconnect with the CLECs via a collocation arrangement at their premises. By preventing Verizon VA from doing so, the CLECs limit Verizon VA's interconnection choices with the CLECs. Tr. at 1137-38. Furthermore, pursuant to the CLECs' proposals, all of the interconnection locations are determined by the CLECs.[34] This gives the CLECs every means available to minimize their own expenses and maximize Verizon VA's. This is why Verizon VA proposes some reasonableness on the CLECs' discretion either through the VGRIP proposal or through reasonable rules on collocation and distance sensitive transport rates.

In essence, fairness dictates that Verizon VA have comparable choices to those available to the CLECs. Tr. at 1137-38. If the CLECs contract proposals are adopted, Verizon VA is financially responsible for delivering its originated traffic to distant points within the LATA. Unlike the choices Verizon VA provides the CLECs, the CLECs prohibit Verizon VA from delivering its originated traffic to multiple points on the network by precluding Verizon VA from collocating at CLEC premises. Tr. at 1038-1040. In addition, if Verizon VA cannot interconnect with the CLECs via a collocation arrangement and if Verizon VA cannot self-provision the transport to the distant CLEC switch, then the CLECs require Verizon VA to

[34] *See* AT&T proposed interconnection agreement, Schedule Four, Part B, § 1.3; WorldCom proposed interconnection, Attachment IV, § 1.1; Cox proposed interconnection agreement § 4.3.4(a).

purchase distance-sensitive transport from them. These arrangements place Verizon VA at the mercy of the CLECs when Verizon VA delivers its originating traffic.

D. AT&T Issues VII-1 and VII-3.

(1) The Commission Should Recognize The Distinction Between POI And IP. (Issue VII-3).

AT&T objects to the terms POI and IP being included in the interconnection agreement because, according to AT&T witness Talbott, those terms are confusing and AT&T no longer finds it useful to recognize the distinction between these terms. Tr. at 964. Despite AT&T's protests, AT&T itself proposed a difference between the POI and the place on the parties' network where financial responsibility changes hands, which is exactly the distinction between POI and IP. In its proposed Schedule 4, Part A § 1.5, AT&T could allow Verizon VA to designate an AT&T collocation arrangement at a Verizon VA tandem as the Verizon VA POI but Verizon VA would remain financially obligated to transport its originated traffic to the AT&T switch located in that LATA. Tr. at 998. Thus, the POI and "IP" would be in different locations, just as Verizon VA has proposed.

Moreover, AT&T's own contract language underscores Verizon VA's position that the place where the parties' physical wires touch is not always the place where the parties exchange financial responsibility for the call. In fact, AT&T witness Talbott admitted as much during the hearing:

> Q: If I understand what's being contemplated here [Schedule 4, Part A, § 1.5 of AT&T's proposed agreement], it would be a physical point of interconnection, a POI, but the point where financial responsibility, the demarcation of financial responsibility is actually not at the physical point of interconnection but at a distant switch; is that correct?

> MR. TALBOTT: Yes, that's exactly the regime the FCC has in place today where the originating carrier's responsible to bring its traffic on its own network to the POI, and compensates the terminating carrier for its costs to transport and terminate the traffic. So, for example, AT&T and Verizon mutually agreed that Verizon's POI would be at a co-location, AT&T co-location, it would have at a Verizon end office.
>
> So . . . Verizon is going to hand its traffic to AT&T at the Verizon end office. AT&T has costs now to get that traffic from the co-location back to our switch. Under current rules, AT&T should be compensated by Verizon for that transport.

Tr. at 996-97. Not only does AT&T contractually distinguish between the POI and IP, albeit without designating the two points as such, it wants an AT&T-like VGRIP provision in the agreement.

AT&T understands the need to identify the financial point on each carrier's network where financial responsibility for the call should change hands for purposes of the parties' transport obligations. In fact, prior to this proceeding, AT&T advocated the use of the terms POI and IP in arbitrations with other carriers and in previous negotiations with Verizon VA. Tr. at 960-62.[35] Verizon VA's distinction between POI and IP, embedded in its VGRIP proposal, properly recognizes the need for physical and financial demarcation points. Verizon VA applies these terms in a way that is fair and equitable to both parties, allowing each party a menu of options from which they can choose and limit their interconnection costs.

(2) The Commission Should Reject Inclusion Of AT&T's Proposed Schedule Four In The Parties' Interconnection Agreement. (Issue VII-1).

The Commission should reject AT&T's proposed Schedule Four, which is neither fair nor flexible and does not represent the portions of the contract language that the parties already agreed to in negotiations. *See* Verizon Ex. 4 at 13-14. AT&T's decision to restructure

[35] *See also* Verizon Ex. 45.

unilaterally several sections of the contract that the parties already agreed upon is an extraordinary waste of resources. AT&T's proposed Schedule Four extends Verizon VA's interconnection obligations beyond what is required by applicable law. As mentioned above, AT&T's interconnection proposal would allow it to interconnect almost anywhere on Verizon VA's network, including a customer premise, if AT&T deems it "technically feasible." Recently, the New York PSC held that AT&T's proposal to "interconnect at any technically feasible point on Verizon New York's network (including tandems, end offices, outside plant and customer premises) is too broad and vague, particularly with respect to Verizon's outside plant."[36]

Verizon VA's proposed §§ 4.1.2 and 4.2, however, provide AT&T, and the other CLECs, with a menu of common options for physical interconnection with Verizon VA. In addition, if the CLEC desires a new method of interconnection, it may submit a bona fide request ("BFR") to work through the technical issues associated with this new method. Tr. 2668-69. The options listed in § 4.2 (§ 2.1 with WorldCom and § 4.3 with Cox) are the same options that the New York PSC adopted in the July 30, 2001, *NY (AT&T/Verizon) Arbitration Order*.[37]

Another problem with AT&T's proposed language, as Verizon VA illustrated in its pre-filed direct and rebuttal testimony on non-mediation issues, is that AT&T's proposal does not really provide Verizon VA many choices. If AT&T does not agree with any of Verizon VA's proposed POIs, pursuant to the AT&T proposal, the Verizon VA POI defaults to the AT&T

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[36] *NY (AT&T/Verizon) Arbitration Order* at 28.

[37] *Id.* ("Verizon's language provides an acceptable list of possible interconnection points and methods, and it is therefore adopted, provided it is amended to allow bona fide requests for additional points and methods of interconnection beyond those specified on the list.").

switch.[38] In effect, AT&T's proposal would limit Verizon VA's POI to an AT&T switch serving the AT&T end user.[39]

In addition, AT&T does not limit the traffic for which Verizon VA is financially responsible to § 251(b)(5) traffic. AT&T proposes that the POI demarcate financial responsibility for "ESIT" -- a term not defined in AT&T's proposed contract language. ESIT, according to AT&T witness Talbott, refers to local and intraLATA toll traffic. Tr. at 975. As this Commission is aware, intraLATA toll traffic is not subject to § 251(b)(5).[40] Thus, despite the seemingly innocuous definition, AT&T is attempting to circumvent the Virginia State Corporation Commission's historical treatment of intrastate toll traffic through the application of the term ESIT in its proposed interconnection agreement.

Several of AT&T's other provisions in Schedule Four deserve mention only because they are not dealt with in other substantive issues. AT&T contends that Schedule Four, Part C merely reorganizes the parties' trunk group language to make it easier for the negotiators and arbitrators

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[38] *See* Verizon Exhibit 4 at 13-14; Exhibit 18 at 5-6. Verizon VA witness Albert expressed frustration with the CLECs' proposals in general when he stated:

> I mean, a lot of it gets back to, and I guess this is what throws me the most is the way a lot of the language is proposed in the contract, the CLEC has all the options to decide, but we've got none. And so basically on what they want to do, a number of those we're then stuck without any choices ourselves.

Tr. at 1137-38.

[39] *See* AT&T proposed interconnection agreement, Schedule 4, Exhibit A, § 1.3.

[40] *See ISP Remand Order* ¶ 37 n. 66 ("both the Commission and the states had in place access regimes applicable to this traffic [interstate and intrastate toll traffic], which they have continued to modify over time. It makes sense that Congress did not intend to disrupt these pre-existing relationships."). In addition, in 2-PIC regimes, the end user customer chooses an intraLATA toll provider. AT&T's use of the term "ESIT" would undermine that regime and possibly run afoul of the FCC's and Virginia's rules against slamming.

to compare the "differences between the terms of [the] two documents."[41] Verizon VA and AT&T reached almost total agreement with respect to the parties' trunk group language and the joint network implementation and grooming process, listed in § 4.1.1 and § 10 respectively of Verizon VA's proposed contract. Verizon Ex. 85. Had AT&T wanted to make it easier to identify any differences between the parties' offers, it should have offered a redline comparison of the two versions, much as Verizon VA did when it originally filed its proposed contract. The addition of Schedule Four puts language in dispute when substantively there should be no dispute because the parties already reached agreement.

The Commission also should reject AT&T's proposed transition and trunk conversion costs found in AT&T's proposed Schedule Four, Part B, § 3 *et seq.* AT&T wants Verizon VA to be responsible for half of AT&T's costs whenever AT&T decides to change its existing network, whether that includes converting from one-way trunks to two-way trunks, re-arranging Verizon VA's facilities by adding a new POI, deciding to re-route trunk groups or involve other changes that are much more extensive. AT&T does not need and should not have this unilateral authority over Verizon VA. If AT&T decides to re-arrange ***its*** network, Verizon VA should not pay for half of those costs. In addition, the AT&T proposals in Schedule Four, Part B § 3 hold Verizon VA unnecessarily to rigid timelines and are also overly broad and vague. Verizon Ex. 18 at 11. Verizon VA's proposed §§ 4.1.4 through 4.1.5, however, provide the parties with the necessary guidance and flexibility regarding transition arrangements. Moreover, Verizon VA's language also is consistent with the New York PSC's recent determination that "AT&T should pay for all relevant, incremental costs triggered by AT&T's actions during [a] transition."[42]

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[41] AT&T Ex. 3 at 130.

[42] *NY (AT&T/Verizon) Arbitration Order* at 29.