Issue III-8 Technically Feasible Points of Interconnection

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

WorldCom: Should the interconnection agreement contain the provisions specifying that for each Network Element Combinations (including UNE-P and loop/transport combinations), Verizon shall provide connectivity at any technically feasible point, not limited to points at which WorldCom collocates on Verizon's premises?

A. OVERVIEW

Access to UNEs is lawfully provided by Verizon VA in several different ways.[32] Verizon VA offers access to EELs where currently combined and allows conversions to EELs under the *Supplemental Order Clarification*. Unbundled loops may be accessed through collocation arrangements at Verizon VA's premises. Conversion to EELs requires collocation at only one central office under local use options 1 and 2; option 3 does not require collocation.[33] Access to feeder subloops is at remote terminals and access to distribution subloops is through connection between Verizon VA's feeder distribution interface (FDI) and a CLEC-owned interconnection cabinet within close proximity of Verizon VA's FDI. Access to multiple dwelling units (MDUs) or multi-tenant environments (MTEs) is available through several methods as set forth in Verizon VA's CLEC Handbook, AT&T Ex. 22. Thus, as a general matter (with the exceptions noted above), to the extent a CLEC wishes to access UNEs at a Verizon VA premises, collocation is required. If AT&T or WorldCom propose a unique

[32] Commission Rule 307(a) requires that Verizon VA provide "nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on terms and conditions that are just, reasonable, and nondiscriminatory...."

[33] *Supplemental Order Clarification* at ¶ 22.

"technically feasible point" of access, the request is processed through the bona fide request (BFR) procedures set forth in the proposed interconnection agreements.

B. DISCUSSION

Verizon VA provides access to its network elements in accordance with the Commission's rules. Unbundled loops are accessed through collocation arrangements at Verizon VA's central office. EELs are provided as required in the *Supplemental Order Clarification*, which may or may not involve collocation in at least one ILEC central office.[34] Verizon VA offers access to feeder subloops at remote terminals and access to distribution subloops through connection between Verizon VA's FDI and a CLEC-owned interconnection cabinet (COPIC) located in close proximity to Verizon VA's FDI.[35] Verizon VA provides access to MDUs and MTEs through cross connections between its network interface device (NID) and the CLEC's NID or, if an entrance module is available in the Verizon VA NID, by connecting the CLEC loop to the Verizon VA NID.[36] Dark fiber loops and subloops are accessible at "hard termination points,"[37] which are equivalent to "accessible terminals" under the *UNE Remand Order* (¶ 205 and n. 395). Accessible terminals are defined by the Commission to be

> [points] on the loop where technicians can access the wire or fiber within the cable without removing a splice case to reach the wire or fiber within.

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[34] *Id.* at ¶¶ 22, 24.

[35] *See* Verizon VA's proposed WorldCom contract, UNE Attachment § 5.3; Verizon VA's proposed AT&T contract § 11.2.14.

[36] Verizon VA's proposed AT&T contract § 11.3; Verizon VA's proposed WorldCom contract, UNE Attachment §§ 6 and 8 (NID). These arrangements are detailed in Verizon VA's CLEC Handbook, AT&T Ex. 22.

[37] Verizon VA's proposed AT&T contract § 11.2; Verizon VA's proposed WorldCom contract, UNE Attachment § 7.

Id. Additionally, if AT&T or WorldCom desires another "technically feasible point" of access to UNEs, it may request such access through the BFR procedures described in the proposed interconnection agreements.[38] Verizon VA will then evaluate the request for technical feasibility and compliance with applicable law and, if appropriate, develop a rate for that access.

Collocation is, of course, a common method by which access to UNEs is provided and AT&T acknowledges that Rule 319(a)(2)(D) "envision[s] subloop access to be generally subject to collocation rules...." AT&T Ex. 2 at 75. Contrary to AT&T's allegations, however, Verizon VA recognizes that collocation is not the exclusive method of access to UNEs. Tr. 113-14; *see* AT&T Ex. 2 at 74 and WorldCom Ex. 12 at 3. Verizon VA's proposed contractual language sets out the typical framework for access to UNEs and that different methods of access will be considered through the BFR process. Verizon VA uses the BFR process to analyze the requested method of access to determine if it is technically feasible (review the impact on network reliability and security) and consistent with applicable law, as well as to determine the effect on various operational support systems. Assuming this analysis confirms the availability of this method of access to UNEs, a price is developed for the proposed method of access. Verizon VA Ex. 23 at 9-10. This process has worked well and there is no suggestion in the record of any past problems with the BFR process and certainly no evidence that AT&T or WorldCom have been aggrieved by the BFR process. In short, Verizon VA provides access to UNEs as required by applicable law. The Petitioners' issues on access to particular UNEs will be addressed in following sections of this brief.

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[38] Verizon VA's proposed AT&T contract, § 13.3; Verizon VA's proposed WorldCom contract, Exhibit B.

C. CONTRACT PROPOSALS

1. AT&T

AT&T's proposed contract language references and incorporates Schedule 11.2.14. AT&T's proposed treatment of this issue is unacceptable for several reasons. First, AT&T's proposed language is plainly at odds with Verizon VA's legal obligations to provide only combinations that are currently combined as discussed in Issue III-6. For example, AT&T proposes that "AT&T may purchase from Verizon on an unbundled basis the entire Loop and NID in combination, or any Subloop element (*i.e.*, Loop Feeder, Loop Concentration/Multiplexing Functionality, Loop Distribution, and intra-premises wiring), or any combination of Subloop elements ordinarily combined in the Verizon network." § 4.2.1 of AT&T's proposed Schedule 11.2.14.

Moreover, AT&T proposes that "Verizon may only refuse to limit availability of or access to a Subloop at or between two points by demonstrating that the access sought by AT&T is technically infeasible." *Id.* This language misstates the Commission's standard for access to a subloop:

> We define subloops as portions of the loop that can be accessed at terminals in the incumbent's outside plant. An accessible terminal is a point on the loop where technicians can access the wire or fiber within the cable without removing a splice case to reach the wire or fiber within.[39]

In addition, § 4.2.2 of AT&T's proposed Schedule 11.2.14 inappropriately would impose an obligation on Verizon VA to guarantee that individual network elements would work in AT&T's network-- a guarantee that Verizon VA is not obligated to provide. For example,

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[39] *UNE Remand Order* ¶ 206.

> Verizon shall provide all Subloop elements or Subloop element combinations to AT&T in good working order such that they are capable of supporting transmission of at least the same quality as when the same or similar configuration is employed by Verizon within its own network. To the extent a Subloop element does not perform to this standard, Verizon will perform all necessary work, at its own cost, to bring the Subloop element into conformance.

This attempt to have Verizon VA guarantee that individual elements are capable of a certain level of performance in AT&T's network is directly at odds with the standard that the CLEC takes the network element--the subloop in this case--as it finds it without guarantees as to its performance on the CLEC's system.

AT&T proposes other language that would require Verizon VA to build or expand its network rather than have AT&T take the UNE "as is." For example, AT&T would like to access and work on Verizon VA's network: "AT&T shall have the option to perform all work, including but not limited to, lifting and re-terminating of cross-connection or cross-connecting new terminations at accessible terminals for subloop access." § 4.2.3 of AT&T's proposed Schedule 11.2.14. To assure network security and reliability, only Verizon VA may work on its network. AT&T also would impermissibly force Verizon VA to expand its system for AT&T's purposes:

> If termination capacity is not available at the time requested by AT&T, AT&T may cancel its order without incurring any charge, or AT&T may extend the due date of the order to permit Verizon to expand the terminal capacity at the identified FDI/SAI. Upon AT&T's request to expand the terminal capacity, VERIZON must complete all such expansion work within 30 business days.

Id. In this same vein, AT&T proposes that it "may, at its discretion, opt to construct an adjacent structure to connect to the Subloop element and Verizon will facilitate interconnecting the existing Verizon structure and the structure deployed by AT&T including but not limited to permitting AT&T to make the necessary physical connections to the Verizon terminals." *Id.* As

AT&T is required to take Verizon VA's network as it finds it,[40] its expansive proposed contractual language heaps significant obligations upon Verizon VA to provide services to AT&T well beyond the requirements of the Act or the Commission's regulations. That expansive language should not be adopted by the Commission.

AT&T also flagrantly attempts to ignore the collocation requirement set in the *Supplemental Order Clarification* for EELs. *See* § 11.12.2 of AT&T's proposed contract ("There is no collocation requirement associated with AT&T's access of EEL as defined herein."). This unlawful proposal must be rejected.

2. WorldCom

WorldCom noted only the following language for its support of this issue in § 2.5 of its proposed interconnection agreement: "For each Network Element including, but not limited to, Combinations, Verizon shall provide connectivity at any Technically Feasible point without requiring MCIm to collocate." As discussed, collocation is generally required for access to many UNEs, but not for others. As such, a blanket prohibition against collocation is contrary to both law and practice and should not be included in the interconnection agreement.

3. Verizon VA

a) <u>AT&T</u>

Verizon VA and AT&T agree on Section 11.0 of their respective proposed contracts offered in this proceeding. Section 11.0 on Unbundled Access requires Verizon VA to

[40] Rule 311(a); *Iowa Utilities I*, 120 F.3d at 813 ("subsection 251(c)(3) implicitly requires unbundled access only to an incumbent LEC's existing network--not to a yet unbuilt superior one.")

> ... offer to AT&T non-discriminatory access to Network Elements and Combinations as set forth below on an unbundled basis at any technically feasible point pursuant to, and in accordance with, the terms and provisions of this Agreement and applicable law . . . ; but, notwithstanding any other provision of this Agreement, only to the extent provision of such Network Elements and Combinations on an unbundled basis is required by Applicable Law. Such access to Network Elements and Combinations shall include all the Network Element's features, functions and capabilities in a manner that allows AT&T to provide any Telecommunications Service that can be offered by means of the Network Element consistent with Applicable Law.

This broad confirmation of Verizon VA's intention to comply with the Commission's rules and all other applicable law provides AT&T with all the necessary assurances that Verizon VA will provide access to UNEs in an appropriate and lawful fashion.

In § 11.7.5 of Verizon VA's proposed AT&T contract, Verizon VA requires access to UNEs through collocation except where otherwise provided in the interconnection agreement:

> Except as otherwise expressly stated in this Agreement, AT&T shall access (via its own facilities or facilities it obtains from a third party) Verizon's unbundled Network Elements and Combinations specifically identified in this Agreement via Collocation in accordance with Section 13 at the Verizon Wire Center where those elements exist, and each Loop or Port shall, in the case of Collocation, be delivered to AT&T's Collocation node by means of a Cross Connection.

b) <u>WorldCom</u>

Verizon VA has offered to WorldCom a substantially similar provision to that contained in § 11.0 of Verizon VA's proposed interconnection agreement to AT&T. Therefore, Verizon VA urges this Commission to adopt this language for the same reasons explained in the AT&T section of the brief. This provision is found in Verizon VA's proposed WorldCom contract, UNE Attachment § 1.

Issue III-9 **Local Switching**

AT&T: Under the FCC's Rules as currently in effect, must Verizon provide to AT&T unbundled local switching UNEs in all instances except where AT&T individually provides four or more access lines to an individual customer at a specific single customer premises (served from density zone 1 offices, as of 1/1/99, in the top 50 MSAs as identified in the FCC's *UNE Remand Order*)?

WorldCom: Local Switching--in what circumstances can Verizon assert the "end user with four or more lines" exception to deny providing AT&T/WorldCom the local switching unbundled network element?

A. OVERVIEW

Verizon VA currently provides local switching as a UNE. If, however, Verizon VA provided "nondiscriminatory, cost-based access" to EELs, it would be authorized (as further described below) to cease offering local switching as a UNE within Density Zone 1 in the top 50 Metropolitan Statistical Areas[41] (MSAs). Verizon VA would still provide local switching as a service to CLECs but at market rates, not TELRIC rates. Tr. 137-40. If Verizon VA were to invoke this switching exception, it would comply with Rule 319(c)(2) by making the exception applicable to customers with 4 voice grade lines or more dispersed at one or more locations within the LATA.

B. DISCUSSION

Verizon VA has not invoked the available local switching exception.[42] If Verizon VA were to invoke the exception, however, the appropriate standard for determining customers eligible to be transitioned from local switching as a UNE would be those with four or more voice

[41] *UNE Remand Order* at ¶ 253.

[42] *Id.* at ¶ 492, *et seq.*

grade lines within the LATA since customer billing is done on a LATA-wide basis.[43] Tr. 162. Only those customer locations, however, within Density Zone 1 of the top 50 MSAs would be affected by the transition to non-UNE local switching.

The underpinning of the four or more line exemption is that the customer has competitive alternatives to local switching within the requisite MSA:

> We find, however, that in our expert judgment, a rule that distinguishes customers with four lines or more from those with three lines or less reasonably captures the division between the mass market-- where competition is nascent-- and the medium enlarged business market-- where competition is beginning to broaden.[44]
>
> . . .
>
> We find that requesting carriers have developed a large number of switches to serve medium and large business customers in the densest areas of the top 50 MSAs, and those medium and large business customers by and large, have choice in their local service provider. Accordingly, we find that relieving incumbent LECs of their unbundled switching obligation, as set forth herein, will not require medium and small business consumers to wait unnecessarily for competitive alternatives because they are largely available today. Furthermore, eliminating an incumbent LEC's local circuit switching obligation in these circumstances is consistent with our goal to reduce regulation where possible. Our decision also provides requesting carriers with access to the elements they need to ramp up towards continued deployment of self-provisioned switches and is therefore consistent with our

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[43] The Commission's Rule 319(c)(2) limits application of the exemption to situations where there are four "voice grade (DS0) equivalents or lines." Contrary to AT&T's position that this means "four, two wire voice grade loops that are capable of terminating on a circuit switch" and not necessarily "64 kilobits of equivalent bandwidth capacity," the exemption applies only with respect to local switching and, therefore, 64 kilobits at the switch. Tr. 174-75. A DS-0 "is a standardized, defined industry standard meeting. It's a 64-kilobit digital channel." Tr. 175.

[44] *UNE Remand Order* at ¶ 294.

> policies of encouraging facilities-based competition and encouraging innovation.[45]

Generally, multi-location businesses are likely to purchase telecommunications from a headquarters or main business office where the business purchases a package of services for the geographic territory in which it operates and has competitive alternatives for those services. It is the availability of these competitive alternatives in these urban markets (Density Zone 1 of the MSA) for which the Commission has determined the local switching exemption can be triggered. Verizon VA Ex. 15 at 33-34. For those locations outside the Density Zone 1 of the top 50 MSAs, specifically 11 central offices in Virginia (Tr. 162), local switching would be available as a UNE.

AT&T and WorldCom would circumvent this exemption by restrictively interpreting "customer" to require 4 or more lines at one location. AT&T Ex. 2 at 40. The Commission's Rule 319(c)(2) has no such single location limitation.[46] Rather, the Commission's exception is clear in that it applies to "end users" and not locations:

> There are several methods we could use to distinguish between the mass market and the medium and large business market for purposes of our unbundling analysis.... We find, however, that a rule that provides access to unbundled local switching for

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[45] *Id.* at ¶ 299.

[46] AT&T has presented this same argument in its Petition for Reconsideration and Clarification of the Third Report and Order. *See* AT&T Corp.'s Petition for Reconsideration and Clarification of the *Third Report and Order*, *In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, at 17 (filed February 17, 2000)(The Commission "should clarify that, for purposes of determining whether an end-user has the requisite number of voice grade lines (*see* 47 C.F.C. § 51.319(c)(1)(B)), an end-user should be defined in terms of individual customers at individual addresses. Thus, if there are multiple end users at a single physical location, each customer should be treated as a separate "end user" for purposes of the [unbundled local circuit switching] exception.").

> requesting carriers when they serve customers with three lines or less captures a significant portion of the mass market.[47]

The total number of lines a customer has is the appropriate measuring stick under applicable law since customers often order services for groups of locations together. Tr. 164. Accordingly, Verizon VA bills entities based on the number of lines the entity has, not based on individual locations. *Id.* As noted by Verizon VA:

> Oftentimes, if you're talking about a large customer, you would be selling to that customer as a whole and not necessarily including or excluding particular locations, so you would be potentially going to the main branch or going to the staff organization to sell services to and not looking necessarily where zone one, top 50 MSA zone one-type offices. You would be pitching a proposal to that customer as a whole.

Tr. 164-65.

AT&T's and WorldCom's proposals completely undermine the exception as applied to businesses with multiple locations. Yet, the Commission adopted the local switching exception for business customers specifically because those business customers have competitive alternatives.[48] AT&T and WorldCom also argue that the economics of switching require a critical mass at one location if the CLEC were going to profit providing local service. Tr. 165-68. Contrary to WorldCom's and AT&T's contentions, however, the use of the customer's lines in several locations to trigger the exception is consistent with the economies of switching. Verizon VA Witness Gansert explained this point:

> ...what we're talking about here is the economics of using unbundled loops to serve individual customers, and it doesn't matter ... whether you go to one customer['s] 10 places or one customer locat[ing] 10 loops at one place. We are going to charge

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[47] *UNE Remand Order* at ¶¶ 292-93.

[48] *Id.*

> them the same amount if you are using unbundled loops for the loop part of the facility. Any inefficiencies of scale there are being absorbed by us, not by the user of the unbundled loops.

Tr. 171-72. Moreover, as Arbitrator Attwood noted, "cost is only one thing [the Commission] would look at" (Tr. 185) to determine what would be an appropriate unbundled element. Verizon VA Witness Gansert added that the appropriate costs would "certainly not [be] the cost of one individual isolated customer, but rather, the cost of the total operation." Tr. 185.

C. CONTRACT PROPOSALS

1. AT&T

AT&T's § 11.4.1.5 is a bold misstatement of the Commission's local switching exception rule and should be rejected in its entirety. The Commission's Rule clearly speaks to the disposition of the customer ("end-users with four or more voice grade (DS0) equivalents or lines"), not the customer's lines at one location as AT&T's language assumes. This misconception taints other provisions proposed by AT&T. For instance, § 11.4.1.5.4 of AT&T's proposal limits Verizon VA's invocation of the exception to "the fourth and subsequent 2 wire unbundled Loops of Verizon that AT&T uses in combination with local switching to provide retail local voice service to a single end user customer account name, at a single physical customer location (including a single tenant building or a single unit within a multiple dwelling unit or other multiple tenant environment)." Here, AT&T seeks to apply the exception to the "fourth and subsequent" lines, which incorrectly implies that they are entitled to UNE local switching for the first, second and third lines. If the *customer* has four or more lines, AT&T would not be eligible for UNE local switching rates for any of the customer's lines. In the next phrase. AT&T twists the Commission's clarification of "four or more voice grade (DS0) equivalents" to imply that the exception only applies to unbundled 2-wire loops, and not 4-wire

loops, DS1s, etc. Both §§ 11.4.1.5 and 11.4.1.5.3 ("same physical location") inappropriately define and limit "customer" to a specific location.

AT&T's proposed § 11.4.1.5.2 would require Verizon VA to provide a lengthy 180 days advanced notice before it may invoke the local switching exception. Verizon VA will provide advanced notice, but 180 days is clearly excessive and not required by the Commission's Rule 319(c)(2). Tr. 187-88. Typically, Verizon VA tariff filings require only a 30 day notice of a rate change. *Id.* AT&T's assertion that 30 days is inadequate notice is belied by the fact that it failed to offer even one example of a problem under a 30 day notice tariff requirement. Moreover, AT&T has been on notice of this change since November 5, 1999 when the Commission released the *UNE Remand Order*.

There are numerous other pitfalls in AT&T's proposed § 11.4.1.5, including AT&T's repeated reference to TELRIC rates for UNE local switching. As AT&T well knows, the Supreme Court is currently considering the UNE pricing methodology based on the Eighth Circuit's decision to vacate portions of the Commission's pricing rules and the Supreme Court's ruling on pricing methodology will be given effect in the interconnection agreement through applicable law provisions.

Because of these inconsistencies with the Commission's rules and other implementation problems with AT&T's proposal, the Commission should reject AT&T's § 11.4.1.5 and accept Verizon VA's proposed language.

2. WorldCom

Section 7.1 of Attachment III to WorldCom's proposed contract states that "Verizon may charge the market-based rates ... for Local Switching for MCIm's provision of local service to customers who have four or more voice grade (DS0) or equivalent lines at one location in"

Density 1 zones. This language, similar to that of AT&T, improperly defines the customer by physical location rather than customer billing identity.

3. Verizon VA

Verizon VA proposes to apply the switching exception according to applicable law. Accordingly, § 1.1 of the UNE Attachment to Verizon VA's proposed WorldCom contract addresses this issue. As to AT&T, Verizon VA proposes in § 11.4.1.5 to comply with the Commission's Rule 319(c)(2), as it may change from time to time to trigger the local switching exception for end users with 4 or more voice grade (DSO) equivalents or lines.

Issues III-11 **Subloops**[49]

Issue IV-19 **Network Interface Device**

AT&T: III-11: How should Verizon VA provide full and non-discriminatory access to all subloop elements at any technically feasible points in order to be consistent with the *UNE Remand Order*?

IV-19: This issue is exclusive to WorldCom.

WorldCom: III-11: Should the contract reflect the Commission's decisions in the UNE Remand, Advanced Services and Line Sharing Proceedings?

IV-19: Should the Interconnection Agreement provide detailed terms specifying the means of access to, and technical and interface requirements for, the network interface device?

A. OVERVIEW

Verizon VA complies with all existing Commission rules on the provision of nondiscriminatory access to subloops and Network Interface Devices (NIDs). Verizon VA, however, has been very careful to limit CLECs' access to inside wire to the customer side of the subloop or NID as a means of protecting and preserving the integrity of the Verizon VA network. Verizon VA has implemented reasonable and consistent methods by which CLECs may gain access to multiple tenant environments (MTE) and multiple dwelling units (MDU) and has experienced few problems in coordinating this access.

B. DISCUSSION

1. Verizon VA will provide access to subloops and NIDs on the customer side of the network.

Verizon VA complies with its duty to provide nondiscriminatory access to subloops and NIDs. Verizon VA must allow the CLECs to connect their facilities to its NID to "access the

[49] These two issues cover the same subjects. Tr. 476. Verizon VA and AT&T have reached agreement on language addressing AT&T's access to Verizon VA's NID.

inside wire subloop network element."[50] Verizon VA provides such access but is not responsible for, and certainly does not hinder, the CLECs' access to the customer side of the network. Tr. 309. Verizon VA Witness Rousey confirmed that a CLEC has full access to the customer side of the network. Currently, Verizon VA allows a CLEC to

> put in [its] own network interface device... and remove the cross-connect wires from the customer side of the rise in NID and then relocate that [to a CLEC facility]... [it] would not take intervention on Verizon [VA's] behalf.

Tr. 304-05.

AT&T and WorldCom demand that Verizon VA allow interconnection on the network side of the demarcation point. The Commission, however, has never required ILECs to grant CLEC employees access to the network side of the facilities. Verizon VA can assure the integrity of its network only if its own employees work on the network side of the demarcation point and CLEC employees work on the customer side of the demarcation point. Verizon VA Ex. 23 at 15. Verizon VA could not reasonably meet operational performance criteria-- or maintain network security generally-- if it has no control over the persons working on the network. Verizon VA employees are subject to strict training and competency standards and as such should be solely responsible for maintaining Verizon VA's network according to these stringent requirements. Tr. 308. Verizon VA's ability to meet operational performance criteria and security requirements cannot be hampered by the uncertainty of whether particular CLECs have the same standards.

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[50] *UNE Remand Order* at ¶ 237; *See Local Competition Order* at ¶¶ 392-94;

Virginia is a minimum point of entry (MPOE) state, and the customer owns the inside wire on the customer side of the demarcation point.[51] Verizon VA Ex. 1 at 8. Thus, Verizon VA's provision of access to inside wire is limited to the customer side of the NID or other demarcation point. Only the owner or its agent may grant access to CLECs to the remaining inside wire. AT&T Witness Pfau lists items for which he believes Verizon VA's procedures are deficient, such as whether the owner has ever requested the demarcation point to be moved, whether Verizon VA trains its employees regarding inside wire and whether Verizon VA inventories or marks its inside wire. AT&T Ex. 2 at 71. This list is largely irrelevant because Verizon VA does not generally own inside wire.

Verizon VA has established appropriate procedures in its CLEC Handbook, Vol. III, § 2.3[52] setting forth the methods by which a CLEC can most effectively gain access to the customer's inside wire. Verizon VA Ex. 15 at 11. AT&T Witness Pfau erroneously alleges that Verizon VA impedes AT&T's access to MTEs through "overly restrictive" contractual provisions that make it "nearly impossible for a CLEC to gain access" to MTEs. AT&T Ex. 2 at 64, 70. Contrary to these unfounded assertions, Verizon VA actually works with the CLEC and the customer to determine the most effective means of access. This process is not contentious, and traditionally results in agreements satisfactory to all parties. Verizon VA Ex. 15 at 12. In

[51] There are some limited situations where Verizon VA owns the inside wire in pre-1986 campus-style facilities. In such facilities Verizon VA makes this inside wire available to CLECs wishing to serve customers in those locations. Verizon VA Ex. 15 at 11.

[52] AT&T Ex. 22.

fact, the record shows that no formal complaint has ever been filed against Verizon VA alleging that its provision of access to inside wire is deficient.[53] *Id.*

Verizon VA strives to provide access in a manner consistent with existing law. Verizon VA's guidelines set forth in its CLEC handbook are designed to facilitate access to inside wire. AT&T Ex. 22. Ignoring AT&T's bluster on access to inside wire, only one point remains: AT&T wants full access to the Verizon VA's network, not just the customer side of the NID or demarcation point. AT&T does not (and should not) have this unfettered access in Verizon VA's central offices or other facilities and, for the same reasons of network security and integrity, should not have unfettered access to Verizon VA's network in an MTE or MDU. Verizon VA Ex. 15 at 12.

2. Verizon VA provides access to its Feeder Distribution Interface devices at technically feasible points.

Verizon VA currently provides access to its FDIs at technically feasible points as required by Rule 319(a)(2). AT&T and WorldCom have requested direct termination of subloops into Verizon VA's FDI rather than having a reasonable administrative and operational interface point established between the two points. Tr. 325. The Commission should reject AT&T's and WorldCom's requests for access at this technically infeasible point. As Verizon VA Witness Gansert pointed out, FDIs were never designed to handle multiple cables or parties

[53] AT&T suggested that a 1999 Petition of Cox Virginia Telecom et al. (Cox Petition) to the Virginia Commission is an example of a formal complaint against Verizon VA's inside wire policies. AT&T Ex. 24. AT&T's reference to the Cox Petition is misplaced. Verizon VA Witness Rousey explained that this Petition was not a complaint against Verizon VA's provision of access to inside wire but rather was, by its terms, a request to "reconfigure Bell Atlantic's existing network wiring." Tr. 322. As such, the Cox Petition is irrelevant in the current arbitration.

cross-connecting to them. Tr. 324. He explained that a CLEC is able to connect to an FDI but should do so through an interface device similar to the arrangement in a central office:

> The question is whether [CLECs] can connect their cables or facilities directly to our FDI without an arrangement that allows us to have a reasonable administrative and operational point of demarcation between the two networks ... it's really perfectly analogous to a central office. It's the same as terminating on [an] interface frame rather than terminating directly on the main [distribution] frame. It's the same analogy, just in a smaller application.

Tr. 326. Verizon VA provides a connection through a TOPIC or COPIC,[54] which is a centralized connection point similar to a NID. Tr. 327. Furthermore, Verizon VA's reason for requiring a TOPIC/COPIC is similar to that of a NID: Verizon VA needs to protect the integrity of its network. By ensuring that all connections to its FDI go through one centralized connection point, Verizon VA can protect the integrity and quality of its network for its customers and requesting carriers.[55]

C. CONTRACT PROPOSAL

1. AT&T -- Issue III-11

Verizon VA has attempted unsuccessfully to understand AT&T's subloop language and its grounding in applicable law. However, two things are clear. One, the Parties have a fundamental difference of opinion with respect to implementation of the Commission's requirements for subloops. And two, AT&T seems to believe that the only way Verizon VA will

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[54] TOPIC (telecommunications carrier outside plant interconnection cabinet) is the terminology used in the AT&T contract (§ 11.2.14.6.3), while COPIC (CLEC outside plant interconnection cabinet) is the terminology used in the proposed WorldCom interconnection agreement § 5.3. The devices are the same.

[55] *See Local Competition Order* at ¶ 206.

provide the subloops it seeks is to specify in this agreement every conceivable permutation of a subloop. AT&T's presupposition that Verizon VA will not provide AT&T with subloop elements as required by law is not true. Verizon VA will provide access to subloops to AT&T in accordance with applicable law. AT&T's proposed language, however, is overly broad and ambiguous and would extend Verizon VA's contractual obligation beyond that required by applicable law.

While Verizon VA will point out a number of the problems with AT&T's proposed subloop language in § 11.2.14, there are problems in virtually every provision. Not only does AT&T's proposal create problems in defining the subloop element, it also introduces new problems regarding OSS, and ordering provisions and combinations. In short, AT&T's subloop proposal should be rejected because it would place requirements on Verizon VA that are well beyond the requirements of applicable law.

Many of AT&T's proposals do not comport with existing Commission regulations. Schedule 11.2.14 of AT&T's proposal begins by defining subloops in a manner that is inconsistent with the *UNE Remand Order*. The Commission defines the subloop "as portions of the loop that can be accessed at terminals in the incumbent's outside plant."[56] Such "accessible terminals" are points "on the loop where technicians can access the wire or fiber within the cable without removing a splice case to reach the wire or fiber within."[57] Access under the *UNE Remand Order* must be provided at accessible terminals.[58] Rather than use the standard industry terms, AT&T seeks to create new terminology to define the subloop element. First, in § 1 of

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[56] *UNE Remand Order* at ¶ 206.

[57] *Id.*

[58] *Id.*

Schedule 11.2.14, AT&T appears to define the subloop element by inaccurately paraphrasing Commission Rule 319 and introducing new undefined terms. First and foremost, AT&T defines subloop as "any portion of the transmission path ... between two access terminals...." *See* § 1 of Schedule 11.2.14 of AT&T's proposed contract. A subloop is a portion of the loop facility. The use of the terms "transmission path" and "access terminal" introduce ambiguity and broaden the subloop definition. The *UNE Remand Order* defines an "accessible terminal," as does AT&T's proposed language,[59] but an "access terminal" strangely is left undefined.[60] To the extent AT&T wishes to incorporate the Commission Rule, its proposed language should simply cite the Rule rather than inaccurately paraphrasing it. To do otherwise arguably obligates Verizon VA to something other than what is stated in the Rule and appears to create a contractual obligation independent of the Rules. For this reason alone, AT&T's subloop language should be rejected.

AT&T then includes a Section entitled Subloop Element-- Functionality and General Requirements, where AT&T appears to define the types of subloop elements and the processes for accessing these elements. *See* § 4 of Schedule 11.2.14 of AT&T's proposed contract. This section defines a new landscape for the provisioning of the subloop element irrespective of the law.[61] After defining the subloop element and accessible terminals, AT&T goes on to state that

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[59] While AT&T defines "accessible terminal," even that definition broadens the definition provided by the Commission. AT&T defines an accessible terminal as "any point on a transmission path, dedicated to a customer (or customers) of AT&T where technicians can access the facility without removing a splice case to reach the facility." Section 2 of Schedule 11.2.14 of AT&T's proposed contract. In contrast, the Commission defined accessible terminal as points "on the loop where technicians access the wire or fiber within the cable without removing a splice case to reach the wire or fiber within." *UNE Remand Order* at ¶ 206.

[60] *UNE Remand Order* at ¶ 206; § 1 of Schedule 11.2.14 of AT&T's proposed contract.

[61] AT&T's language is also incomprehensible. On the one hand, AT&T provides that the "Subloop Element includes but is not limited to the following functionality" and on the other provides that "The BFR Process shall not apply to the purchase of Subloop Elements." §§ 4.1 (continued...)

"AT&T may connect to any subloop element at any technically feasible point and Verizon will not in any manner restrict or delay access to such technically feasible points." § 4.2.3 of Schedule 11.2.14 of AT&T's proposed contract. This provision contradicts the mandate of the *UNE Remand Order*, which determined that access to the subloop element at any technically feasible point was limited to access at accessible terminals.[62] AT&T attempts to obtain limitless access to Verizon VA's facilities. AT&T even introduces terms for the unbundling of the entire loop as well as a loop and NID combination and any combination of subloop elements "ordinarily combined in the Verizon network" in disregard to the "currently combined" holding of the Eighth Circuit. *See* § 4.2.1 of Schedule 11.2.14 of AT&T's proposed contract. Moreover, in the Schedule, § 4.2.1, AT&T states that Verizon VA should provide access to inside wire at any point unless it can demonstrate to AT&T that "the access sought by AT&T is technically infeasible." The Commission's rules, however, require Verizon VA to provide access only at "accessible terminals."[63] AT&T also would require Verizon VA to modify its network contrary to the Eighth Circuit's holding that Verizon VA need only provide access to the network as it currently exists.[64] Verizon VA is neither obligated to ensure the quality of the wire nor to "perform all necessary work, at its own cost, to bring the Subloop element conformance," as would be required by proposed § 4.2.2.

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and 4.2.1 of Schedule 11.2.14 of AT&T's proposed contract. How can the language both leave undefined possible Subloop Element "functionalities" and not provide any mechanism for AT&T to access those unknown functionalities?

[62] *UNE Remand Order* at ¶ 206.

[63] *See id.*

[64] *See Iowa Utilities I*, 120 F.3d at 813.

AT&T seeks also to impose timeframe restrictions on Verizon VA in § 4.2.5 "to implement all necessary interconnections" within 30 days to be determined "from the date of an interconnection request."[65] This provision should be rejected as it does not fairly account for unanticipated technical delays that could arise after the date of the request due to events outside Verizon VA's control. Verizon VA Ex. 1 at 14.

In § 4.1 of Schedule 11.2.14 of AT&T's proposed contract, AT&T appears to define the following types of subloops: "Loop Concentration/ Multiplexing Functionality (§ 4.3); Loop Feeder (§ 4.4); "Loop Distribution" (§ 4.5); "Multi-Tenant Environments" (§ 4.6); "Single Point of Interconnection" (§ 4.6.3) and "Demarcation Point" (§ 4.6.4). It is not clear if these are types of subloops or just what AT&T deems "functionalities" of the subloop element. For instance, what are "subloop element functionalities" and how do they differ from types of subloops?

The "loop concentrating/multiplexing functionality" AT&T seeks is not a standard subloop offering. AT&T's explanation of this functionality is incomprehensible:

> This functionality includes the connecting facilities from the physical location of the equipment providing the loop concentration/multiplexing functionality and the physical location of the accessible terminals on the distribution side of the functionality outside the central office as well as the connecting facility from the physical location of the equipment providing the functionality in the Central Office and accessible terminal used by AT&T in the Central Office.

§ 4.3.1.1 of Schedule 11.2.14 of AT&T's proposed contract. This jumble of words could elicit limitless interpretations. Yet, under applicable law, the Parties know that multiplexing is a functionality of transport and is not available as a UNE.

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[65] § 4.2.5 of AT&T's proposed contract as filed on November 13, 2001 omits "30 days" and, instead, states that the timeframe will be "no later than TBD days from the date of an interconnection request from AT&T."

Most importantly, Verizon VA must maintain the integrity of its network. Accordingly, Verizon VA objects to AT&T's language in § 4.2.3, which would allow unsupervised access by AT&T to Verizon VA's network side of its system. Verizon VA does not prevent AT&T from accessing the network but, rather, consistent with Rule 319(a)(2), allows access to subloops only at accessible termination points to ensure the quality of its network. Verizon VA Ex. 15 at 12.

In all events, AT&T's proposed language is unclear and could be interpreted to require that the subloops element include all of the following functionalities: (a) Loop Concentration/ Multiplexing Functionality, (b) Loop Feeder, (c) Loop Distribution, and (d) Intra-premises Wiring. §§ 4.1-4.2 of Schedule 11.14.2 of AT&T's proposed contract. While Verizon VA hopes this is simply poor drafting, this language could be interpreted to define the subloop element as including all functionalities of the loop. A subloop will include only the features, functions, and capabilities of that portion of the loop. Further, to the extent attached electronics are excluded from the definition of the local loop network element, they would also be excluded from the sub-loop element. Thus, electronics used for the provision of advanced services-- the concentration/multiplexing function-- may not be included. As AT&T's language is poorly drafted and overly broad, it invites subsequent litigation.

2. WorldCom

a) Issue III-11

WorldCom proposes language in Attachment III §§ 4.3-4.5 for access to subloops. WorldCom's attempt to paraphrase existing law in Rule 319(a)(2)(ii) in § 4.3.4 is unacceptable. Should this language change, this contract and all others like it would have to be amended. This would be an overwhelming administrative burden on Verizon VA. Verizon VA Ex. 1 at 11-12.

The most effective method of adopting existing law into the interconnection agreement is to incorporate it by reference as Verizon VA has proposed.[66] Verizon VA Ex. 1 at 12.

WorldCom's contractual language imposes duties upon Verizon VA that are not required under existing law. In § 4.4.2.4, WorldCom requires Verizon VA to "provide appropriate power" to the loop feeder. This goes well beyond making available the network "as is," and regulations do not require the provision of power services.[67] WorldCom's overreaching continues in § 4.4.2.2 when it requests Verizon VA to provide WorldCom with a "copper twisted pair Loop even in instances where the medium of the Loop Feeder for services that Verizon VA offers is other than a copper facility." This provision would require Verizon VA to build new facilities in order to comply with the request, and, again, goes beyond the scope of existing law.[68]

Similar to AT&T, WorldCom requests in § 4.4.2.1 Verizon VA to "provide MCIm physical access to the FDI." Verizon VA will provide connection to its FDI through a TOPIC, which is a centralized connection point in the network. Tr. 325. Verizon VA cannot provide access as WorldCom requests because the FDI is not designed to be repeatedly accessed, and doing so could jeopardize the quality and security of Verizon VA's network. Tr. 324.

b) WorldCom IV-19

Verizon VA currently grants CLECs access to its NID in full compliance with the *Local Competition Order*, ¶¶ 392-94 and the *UNE Remand Order*, ¶¶ 237 and 240. WorldCom is attempting to circumvent current law with proposed language in Attachment III, § 4.7.3.1.2 that would allow WorldCom to "remove the inside wire from [Verizon VA's] NID and connect that

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[66] *See* § 1.1.5.1 of Verizon proposed WorldCom contract.

[67] *See Iowa Utilities I*, 120 F.3d at 813.

[68] *Id.*

wire to [WorldCom's] own NID." It is essential that Verizon VA limit CLEC employees to working on the customer side of the NID if Verizon VA is to ensure the quality and reliability of its network. Verizon VA Ex. 23 at 15. WorldCom also goes beyond the scope of existing law by attempting to require Verizon VA to connect WorldCom's loop facilities to on-premises wiring of a customer through Verizon VA's NID in any "Technically Feasible manner." Attachment III, § 4.7.2. This language is vague and should be rejected. Verizon VA Ex. 23 at 16. Verizon VA will continue to provide interconnection in an "orderly and predicable" manner.[69] To eliminate the potential for maintenance or safety concerns, Verizon VA utilizes standard, predictable interconnection arrangements. Accordingly, WorldCom's proposed contractual language should be rejected.

3. Verizon VA

a) AT&T -- Issue III-11

Consistent with its obligation to provide access to the subloop under the *UNE Remand Order* and by the Commission's regulations promulgated pursuant to that Order, Verizon VA offers in § 11.2.14 of its proposed AT&T contract to provide access to its subloops at accessible terminals to the full "extent required by law." Verizon VA defines "[t]he unbundled Sub-Loop network element, as set forth in FCC Rule 51.319(a)(2), as any portion of the loop that is technically feasible to access at terminals in Verizon's outside plant, including inside wire as defined in FCC Rule 51.319(a)(2)(i). § 11.2.14.1 of Verizon VA's proposed WorldCom contract. Section 11.2.14.5.1 recognizes that the subloop network element includes the subloop

[69] Verizon VA currently provides a CLEC with access to the Verizon VA NID through a cross connection, through an adjoining CLEC NID, or if an entrance module is available in the Verizon VA NID, then directly to that NID. Verizon VA Ex. 23 at 16.

distribution facility and the feeder subloop. If AT&T seeks access to another type of subloop, Verizon VA will make them available through the BFR process outlined in § 28.13.

The Commission has indicated that accessible point could, but not necessarily, be located close to the end-user's residence, such as the pole or pedestal, the NID, the MPOE, and the SPOI, the main distribution frame, and the FDI.[70] § 11.2.14.2 of Verizon VA's proposed AT&T contract. The Order also states that to the extent a remote terminal or controlled environmental vault contains an FDI it is also an accessible terminal. Verizon VA has not denied AT&T access to accessible terminals because access is available through Verizon VA's standard subloop products and BFR process.

Proposed § 11.2.14.6.3 protects the integrity of Verizon VA's network by limiting CLEC access to its FDI to points on the customer side of the network and provides that Verizon VA will provide access to a distribution subloop facility at an FDI through an interconnecting cable to AT&T's TOPIC. Verizon VA will provide substantial information about the loop make-up to AT&T upon submission of an engineering query. § 11.2.14.6.4. AT&T may access feeder subloops from a collocation arrangement in an end office to a collocation arrangement in a Verizon VA remote terminal or an AT&T TOPIC. § 11.2.14.7.2. Access to both distribution and feeder subloops will be within negotiated intervals. §§ 11.2.14.6.11 and 11.2.14.7.5. These access arrangements are commercially reasonable and comply fully with applicable law.

b) <u>WorldCom -- Issue III-11</u>

Verizon VA will provide access to its subloops at accessible points in accordance with applicable law and similar to that set forth above for AT&T. *See* Verizon VA proposed WorldCom contract, UNE Attachment §§ 5, 6, 8.

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[70] *Id.*

c) WorldCom -- Issue IV-19

Verizon VA will, as it has always done, comply with existing law by providing access to the NID "in accordance with, but only to the extent required by, Applicable Law." § 8.1 of the UNE Attachment to Verizon VA's proposed contract. By incorporating the law by reference, Verizon VA can avoid the administrative burden of changing every contract that it has with CLECs when the law changes. In contrast, WorldCom's proposal of paraphrasing or parroting into the agreement the actual Commission rule does not account for the possibility of a modification in the law, and also inappropriately complicates matters by including within such paraphrase WorldCom's "spin" on existing law. Verizon VA highlights the freedom that a requesting carrier has to work on the customer side of the NID in proposed § 8.6. Indeed, a CLEC "does not need to submit a request" to Verizon VA when connecting to the "Customer's side of the Verizon NID." In short, Verizon VA is not involved when a CLEC works on the customer side of the network, and no Commission rule requires an ILEC to allow a representative of a CLEC to work on the ILEC's network facilities.

Issue III-12 **Dark Fiber**

AT&T: Does Verizon VA have the obligation to make "unused transmission media" available to AT&T and, if so, how is that obligation fulfilled?

WorldCom: Should the contract reflect the FCC's decisions in the UNE Remand, Advanced Services and Line Sharing Proceedings?

A. OVERVIEW

Verizon VA currently provides AT&T and WorldCom access to dark fiber in a non-discriminatory manner that complies with the Act and subsequent Commission Orders. Moreover, Verizon VA provides CLECs with access to dark fiber in the same manner as it currently provides dark fiber to itself: at accessible terminals within the Verizon VA network. Verizon VA is obligated only to provide access to its ***existing*** fiber network, not to expand or build a network according to CLEC specifications and not to add electronics in connection with dark fiber.

B. DISCUSSION

It is noteworthy that the positions on dark fiber advocated in this proceeding by AT&T (*e.g.*, reservation of dark fiber, access at splice points, upgrading electronics, use of the term "unused transmission media", etc.) were rejected by the New York Commission in favor of Verizon NY's tariff in the *NY (Verizon/AT&T) Arbitration Order*.[71] Undaunted, AT&T again seeks to impose obligations upon Verizon VA despite the fact that, as the New York Commission stated, "AT&T has not shown any unique circumstances that distinguish it from other CLECs."[72]

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[71] *NY (AT&T/Verizon) Arbitration Order* at 63-67.

[72] *Id.* at 66.