Commission-approved tariffs governing rates for exchange access LIDB dips. Importantly, acceptance of WorldCom's proposal to hide the true nature of its LIDB dips would discriminate against IXCs that do not have a CLEC affiliate through which to funnel LIDB dips. The Commission should reject WorldCom's sleight-of-hand reporting of LIDB dips.

B. DISCUSSION

Verizon VA's exchange access charges are currently dictated by a Commission-approved tariff that predates the Act. Congress specifically stated that the access tariff remains enforceable unless explicitly superceded by the Commission.[106] WorldCom, in an attempt to escape its lawful obligations under this approved tariff, has begun to aggregate its IXC affiliates' LIDB inquiries under its CLEC local traffic point code and submit and pay for those exchange access LIDB dips as if they had been initiated by the CLEC's customers for local calls.

WorldCom does not deny the existence of a tariffed rate for exchange access LIDB dips, or the applicability of the tariffed rate for such inquiries. In fact, WorldCom Witness Goldfarb

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[106] Title 47 U.S.C. § 251(g) states, in pertinent part:

> Continued Enforcement of Exchange Access and Interconnection Requirements.--On and after the date of enactment of the Telecommunications Act of 1996, each local exchange carrier, to the extent that it provides wirelines services, shall provide exchange access, information access, and exchange services for such access to interexchange carriers and information service providers in accordance with the same equal access and nondiscriminatory interconnection restrictions and obligations (including receipt of compensation) ***that apply to such carrier on the date immediately preceding the date of enactment of the Telecommunications Act of 1996*** under any court order, consent decree, or regulation, order, or policy of the Commission, ***until such restrictions and obligations are explicitly superseded by regulations prescribed by the Commission after such date of enactment.*** During the period beginning on such date of enactment and until such restrictions and obligations are so superseded, such restrictions and obligations shall be enforceable in the same manner as regulations of the Commission. (Emphasis added).

admitted that prior to the passage of the Act, IXCs querying Verizon VA's LIDB would pay for that dip according to the access charge tariff. Tr. 623. Since the passage of the Act and specifically ¶ 362 of the *Local Competition Order*, WorldCom now contends that IXCs have apparently had the option since 1996 of choosing one of two rates for LIDB dips--either the UNE rate or the tariffed exchange access rate. WorldCom's argument, although not expressly stated, seems to be that ¶ 362 of the *Local Competition Order* "explicitly supersedes" application of tariffed exchange access rates for LIDB dips. WorldCom Witness Goldfarb testified that the Commission has interpreted § 251(g) "explicitly that it would not-- that it was not put in in order to just protect the revenue stream of the ILECs forever, that 251(g) had other purposes." Tr. 626. Notwithstanding Mr. Goldfarb's statement, the terms of § 251(g) maintain the access regime "until such restrictions and obligations are explicitly superseded by regulations prescribed by the Commission." To date, no rules have been promulgated by the Commission to nullify Verizon VA's lawfully filed access tariff on LIDB dips. Mr. Goldfarb also stated that § 251(g) "did not mean that UNEs could not be used for exchange access services or for interexchange carriers, interexchange services," *id.*, and therefore network elements may be used for any telecommunications service and paid for at UNE rates, regardless of the traffic being transmitted or the identity of the carrier using Verizon VA's network. WorldCom Ex. 25 at 22. Finally, WorldCom believes that to disallow affiliated IXC LIDB dips from UNE treatment would be "equivalent to denying WorldCom access to this UNE altogether because LIDB is used almost exclusively in connection with toll calls." *Id.*

WorldCom's argument flies in the face of Congressional intent and both this Commission's orders and state commission orders that have consistently rejected CLEC attempts to chip away at the existing access regime unless and, until, "explicitly superceded" by the

Commission.[107] Moreover, the Act's goal of promoting competition in the local telecommunications market and local competition is not enhanced by WorldCom's misreporting of its exchange access LIDB traffic as local LIDB dips at UNE rates rather than tariff rates. Consistent with the goal of enhancing local competition, the Commission unambiguously stated with respect to LIDB access: "We believe that access to call-related databases, such as the LIDB ..., encourages efficient network architecture deployment and promotes the ability of new entrants and established competitors to provide service in the ***local exchange market***."[108] WorldCom cannot avoid the obvious flaw in its scheme because the Commission has not "explicitly superceded" the access regime or Verizon VA's filed access tariff as to LIDB dips. WorldCom also argues that LIDB is "used almost exclusively in connection with toll calls," implying that LIDB as a UNE was necessarily available to toll traffic. WorldCom Ex. 25 at 22. WorldCom is wrong. Verizon VA testified that

> local calls constitute about 30% of all alternatively billed (ABS) intraLATA calls completed by Verizon customers. LIDB is used to validate the billing number for each of these ABS calls, including collect, calling card and bill-to-third number calls. In Virginia, Verizon VA has completed over five million local ABS calls using LIDB so far in 2001.

Verizon VA Ex. 24 at 8. As such, WorldCom is incorrect when it suggests that LIDB is used "almost exclusively" for toll calls.

WorldCom also suggests that there is no financial reason to prohibit its LIDB scheme as there is to support the Commission's restrictions on special access service-to-EEL conversions. WorldCom Ex. 25 at 25. WorldCom is also wrong on this point. Verizon VA's response to a

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[107] 47 U.S.C. § 251(g).

[108] *UNE Remand Order* at ¶ 411 (emphasis added).

record request, submitted to the Commission on October 19, 2001, shows that since the Second Quarter of 2000, when WorldCom initiated its LIDB scheme, WorldCom has improperly submitted in Verizon's mid-Atlantic states over 47 million WorldCom IXC LIDB "dips" in the name of the WorldCom CLEC for no reason other than to avoid paying the tariffed LIDB rate.[109]

Thus, similar to the conversion of special access services-to-EELs, conversion of LIDB dips from the access tariff to UNE rates is already having an impact on Verizon VA's revenues. The Commission's motivation for seeking additional public comment before the final determination of the provisions of EELs demonstrates the appropriate caution with which the Commission proceeds before allowing a major revenue impact on the exchange access market. At the very least, a similar process should be used before allowing these access tariffed LIDB revenues to be eliminated.

The Commission recently has noted the inappropriateness of attempts to use a UNE for an access service, at UNE rates, without consideration of the "impair" standard of § 251(d)(2). In the *Supplemental Order Clarification*, the Commission found that a carrier cannot arbitrarily substitute a UNE for a tariffed access service. The Commission explained its rationale:

> [B]efore the Supreme Court issued its decision in *Iowa Utilities Board*, we sometimes approached an incumbent's obligation to unbundled network elements as though it were an all-or-nothing proposition, suggesting that, if a competitor were entitled to obtain access to an element for one purpose, it was generally also entitled to obtain access to that element for wholly different purposes as well.[110]

The Commission admitted that it

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[109] *See* Attachment 1 to the UNE portion of this brief (Attachments 62A and B to Verizon VA Exhibit 62).

[110] *Supplemental Order Clarification* at ¶ 12.

> never specifically focused on the relationship between that issue ... and the "impair" standard of section 251(d)(2). Now that the Supreme Court has rejected our previous interpretation of that provision as insufficiently rigorous, it is appropriate for us to revisit the issue.[111]

Moreover, the Commission recognized that "[t]he exchange access market occupies a different legal category from the market for telephone exchange services; indeed, at the highest level of generality, Congress itself drew an explicit statutory distinction between those two markets."[112] WorldCom erroneously ignores Congress' and the Commission's explicit findings as to these two markets and its position is fatally flawed because of that omission.[113]

Verizon VA's obligation to provide access to its LIDB at UNE rates is limited to the local exchange service. WorldCom's LIDB dips for interexchange access traffic should continue to be governed by Verizon VA's filed access tariff. This is consistent with the explicit distinction

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[111] *Id.*

[112] *Id.* at ¶ 14.

[113] Similarly, the Public Service Commission of Maryland recently rejected an attempt by Sprint to eliminate the carefully drawn and preserved distinction between the exchange access and local service markets.

> A review of the record clearly shows that the Sprint proposal [to commingle UNEs and access traffic] is an attempt to bypass the access schemes contemplated between the parties ... and there are clear consequences if alternative measures, such as the Sprint proposal, would be utilized to evade the access charges contemplated by the FCC. As noted by the FCC, alternative schemes could have consequences such as undercutting universal service, and as such we have serious reservations regarding the legality and propriety of the Sprint proposal at this time.

MD (Sprint/Verizon) Arbitration Order at 36. The Maryland Commission rejected Sprint's proposal since it "would clearly affect the access schemes in effect." *Id.* at 37.

between the local and interexchange access markets drawn by Congress in § 251(g) and consistently upheld by the Commission and state commissions.

C. CONTRACT PROPOSALS

1. WorldCom

WorldCom has resurrected the language from the Parties' 1997 agreement in § 13.3 of Attachment III to WorldCom's proposed contract. Much of this language is technical and completely unnecessary for the provision of access to Verizon VA's LIDB. Verizon VA's experience has shown that interconnection agreements should not be overly detailed such that they become quickly outdated relative to applicable law. Broad references provide the Parties with flexibility without the need for constantly revising or amending the agreement. Moreover, Verizon VA's proposed language provides adequate safeguards to prevent WorldCom from gaming the system by misreporting its LIDB inquiries as originating from a CLEC when, in fact, it is exchange access traffic.

2. Verizon VA

Verizon VA will provide access to LIDB in accordance with applicable law. Verizon VA's proposed WorldCom contract § 11.1. In doing so, Verizon VA has the right to be compensated for use of its network elements. Section § 11.11 of the UNE Attachment to Verizon VA's proposed WorldCom contract states that: "Each Party shall charge the other Party mutual and reciprocal rates for any usage-based charges for ... LIDB access ... as follows: Verizon shall charge **CLEC in accordance with the Pricing Attachment and the terms and conditions in applicable Tariffs...." LIDB dips for interexchange access service do not use UNEs to provide local service and are not within the scope of this interconnection agreement.

Issue IV-24 **Directory Assistance Database**

WorldCom: Should the Interconnection Agreement include detailed provisions regarding provision of Verizon's directory assistance database UNE to WorldCom, including the price of each directory assistance listing?

A. OVERVIEW

The only issue discussed in the testimony is whether the Parties' current Directory Assistance License Agreement ("DAL") and accompanying Settlement Agreement control WorldCom's access to Verizon VA's Directory Assistance ("DA") listings database without further involvement with the interconnection agreement. The Settlement Agreement entered into by WorldCom and Verizon VA prohibits the Parties from making the terms and conditions of WorldCom's access to Verizon VA's Directory Assistance database the subject of an arbitration. In addition, the DAL provides for WorldCom's access to Verizon VA's DA listings database until at least November 30, 2004--just months before the termination date of the Parties 3 year interconnection agreement that will result from the arbitration. Accordingly, no action is required by the Commission in this arbitration as to the provision of the Directory Assistance Database, and WorldCom is prohibited by the Settlement Agreement from requesting any such action.

B. DISCUSSION

WorldCom admits its access to Verizon VA's DA database is controlled by the Parties' DAL, dated November 19, 1998, and the accompanying Settlement Agreement.[114] Pursuant to the Settlement Agreement, as long as the DAL exists and Bell Atlantic (now Verizon VA)

[114] *See* Transcript at 628, 634-35. The Settlement Agreement was a contemporaneous agreement executed as an essential component to the execution of the DAL in November 1998.

complies with the DAL (and WorldCom does not allege that Verizon VA is not complying), WorldCom has no right to arbitrate the DAL. That agreement provides:

> **NOW, THEREFORE**, in consideration of the mutual promises herein set forth, the parties agree as follows
>
> . . .
>
> 2. As long as Bell Atlantic complies with the obligations set forth in this Agreement and the License Agreement, MCI [now WorldCom] agrees:
>
> . . .
>
> (b) ***not to file any complaints, arbitrations, arbitration appeals, declaratory, or other proceedings against Bell Atlantic, and*** not to file comments opposing Bell Atlantic in other proceedings, in the future arising under the Telecommunications Act of 1996, state law, or orders of any regulatory commission regarding ***Bell Atlantic's provision of directory assistance data to MCI and others***; provided that MCI may file comments or take action in the other proceedings as long as MCI does not challenge Bell Atlantic's provision of directory assistance data to MCI and others, the License Agreement, or this Agreement.

Verizon VA Ex. 8 at 12. (Emphasis added). Accordingly, WorldCom is contractually prohibited from making access to Verizon VA's DA database an issue in this arbitration.

Nevertheless, despite the contractual prohibition entered into freely by WorldCom, WorldCom now seeks effectively to renegotiate the existing DAL even though it does not expire until November 30, 2002 and by its terms will remain operative at least until November 30, 2004. Pursuant to § 1 of the DAL, if

> either party elects not to renew this Agreement, [WorldCom] and [Verizon VA] will in good faith negotiate an agreement to succeed this Agreement, and during such negotiations this Agreement will remain in full force and effect until the earlier of: (i) execution of a succeeding agreement by [WorldCom] and Verizon VA] or (ii) two (2) years after the date on which this Agreement would have expired.

WorldCom Ex. 10, Attachment EC-2 at 26. WorldCom suggests that the DAL "may expire on November 30, 2001 because Verizon VA has the option of not renewing the Agreement." WorldCom Petition at 68. The DAL was not terminated in 2001 by either party so it cannot expire until at least November 30, 2002. WorldCom claims that "it seeks to include in its [proposed] Interconnection Agreement terms that will govern once the DAL Agreement expires...[because] MCIm ***could*** be left without an agreement to get access to the DAL database after November 30, 2002--and after the opportunity to include this issue in the arbitration has passed." WorldCom Ex. 10 at 4 (emphasis added). This testimony is disingenuous because WorldCom would not "be left without an agreement" after November 30, 2002. The agreement, if terminated, has a mandatory two year continuation period unless the Parties negotiate a new agreement. Apparently, belatedly realizing the effect of the foregoing contract provision, WorldCom Witness Caputo backed away from the earlier testimony, stating that "if the parties are unable to reach an agreement after two years [November 30, 2004], then there is no agreement, and there is a possibility then that WorldCom would not be able to have access to the directory assistance listings of Verizon." Tr. 632-33.

WorldCom's concern that Verizon VA may exercise its right to terminate the DAL is one of sheer speculation. *See* Tr. 631-32. WorldCom admitted that it has no indication that Verizon VA has even contemplated terminating the DAL. In fact, Verizon VA has no such intention. *See* Tr. 631. Verizon VA maintains substantially similar DAL agreements with many other CLECs and expects to continue to maintain all such agreements in compliance with its obligations to make directory listings available on a nondiscriminatory basis as required by § 251(b)(3) and this Commission. Verizon VA Ex. 24 at 11.

WorldCom's motives for attempting to inject improperly the DAL into this arbitration were revealed by WorldCom Witness Caputo:

> The point is that, under an Interconnection Agreement, we have certain opportunities to exercise other options in terms of our ability to have arbitration or to work through a process to provide us the listing information should we need it, and be unable to, for whatever reason, to negotiate a successor agreement.

Tr. 633-34. Quite simply, WorldCom is attempting to alter the terms of the existing DAL by incorporating a relief provision in the interconnection agreement. This is improper. WorldCom cannot, by the terms of the Settlement Agreement, use this proceeding to amend the Parties' existing DAL and effectively bypass the contractual obligations that it negotiated and freely assumed. *See* WorldCom Ex. 10 at 5. WorldCom even recites and acknowledges that those legal obligations preclude it from raising any issue affecting the terms for provision of DAL while the DAL agreement is in effect: "[P]ursuant to a Settlement Agreement between the parties, WorldCom ***cannot file any complaints or arbitrations*** regarding Verizon's provision of directory assistance data to WorldCom so long as Verizon complies with its obligations under the License Agreement" and affirms that WorldCom's "proposed amendment suggests changes to the terms and conditions under which Verizon provides directory assistance data to WorldCom." *See* WorldCom Ex. 10 at 5 (emphasis added). Therefore, the Commission should not consider WorldCom's proposal because it violates the Settlement Agreement.

Sensing the weakness of its position, WorldCom suggests a second invalid insertion into the proposed interconnection agreement. If the Commission finds that the Parties are not permitted to arbitrate this issue pursuant to the DAL and Settlement Agreement, WorldCom proposes the following language as included in its proposed interconnection agreement: "[Verizon VA] will provide to MCIm, and MCIm will pay [Verizon VA] for, directory assistance data at the rate and under the terms and conditions set forth in the Directory

Assistance License Agreement executed by the Parties on November 19, 1998, and as may be subsequently amended by the Parties." WorldCom Ex. 10 at 6. This alternate proposal seeks to accomplish what WorldCom has already conceded it cannot do: change the provisions of the already effective DAL. First, by this request, WorldCom asks the Commission to nullify Verizon VA's right to terminate or modify in the future the current DAL. Verizon VA's right to terminate the DAL was bargained for by Verizon VA and accepted by WorldCom. That agreement also explicitly addresses WorldCom's rights and obligations with respect to continuing or renegotiating additional or new terms upon its expiration or termination. If Verizon VA eventually terminates or proposes to modify the DAL pursuant to those terms and WorldCom believes it is not receiving appropriate access to directory listings, it may seek relief at that time. In addition, when taken to its logical conclusion, WorldCom's argument seems to be that any agreement between the Parties describing obligations under the Act should never be permitted to expire because "[t]his would place Verizon at an enormous negotiating and competitive advantage." *Id.* at 7. WorldCom would like to establish precedent that inappropriately presumes Verizon VA will disregard its statutory obligation to negotiate in good faith, and WorldCom also would like to establish complete control over the DAL by having the arrangements continue indefinitely until WorldCom desires a change in those arrangements. Inclusion of such a provision for DA listings is completely uncalled for and would require the Commission to treat DA listings differently from other services or products provided under an interconnection agreement that expire at a set date.

WorldCom also asserts that its position is somehow enhanced because it believes access to the DA database is a UNE. Although the issue of whether access to the DA database is or is not a UNE is not relevant to whether WorldCom may avoid its legal obligations and insist on

amendments to the effective DAL agreement, Verizon VA does not agree that its DA database is a UNE. WorldCom Witness Caputo claimed "It is clear that the DAL database is a UNE. The FCC determined that the DAL database is a UNE under Section 251(c)(3) in its Local Competition First Report & Order." WorldCom Ex. 10 at 7. Mr. Caputo then cited to ¶ 19 of the *UNE Remand Order*, which includes "Operator Services/Directory Assistance databases" as call-related databases to which ILECs must offer unbundled access and stated that "[t]he FCC in that Order did not remove DAL databases from the list of UNEs." *Id.* at 7-8.

WorldCom, however, failed to cite ¶ 14 of the *UNE Remand Order*, which states:

> The following network elements need not be unbundled: Operator Services and Directory Assistance (OS/DA). Incumbent LECs are not required to unbundle their OS/DA services pursuant to section 251(c)(3).... Incumbent LECs, however, remain obligated under the non-discrimination requirements of section 251(b)(3) to comply with the reasonable request of a carrier that purchases the incumbents' OS/DA services to rebrand or unbrand those services, and to provide directory assistance listing updates in daily electronic batch files.

The Commission further stated:

> The record indicates that carriers that are entitled to access to incumbent LEC database information and updates, such as competitive LECs and interexchange carriers like MCI WorldCom, Sprint and AT&T, offer directory assistance on a wholesale basis to other competitive LECs. Additionally, we note that third-party OS/DA providers are often able to purchase incumbent LEC OS/DA database information and updates. We are therefore not persuaded that lack of unbundled access to incumbent LEC databases used in the provision of OS/DA necessarily results in quality differences that would materially diminish a requesting carrier's ability to offer service.

UNE Remand Order, at ¶ 457 (footnotes omitted). Furthermore, the Commission subsequently clarified *UNE Remand Order* ¶ 19, which WorldCom cites, and confirmed that the obligation to provide nondiscriminatory access to an ILEC's DA database arises not under 251(c)(3) as WorldCom claims, but under § 251(b)(3), which applies to all LECs, Verizon VA and

WorldCom alike.[115] The Commission declined to adopt any specific pricing requirements and specifically noted that "UNE pricing was no longer required for directory assistance and therefore [it] removed the service from the list of UNEs."[116]

Section 3 of the Additional Services Attachment to Verizon VA's proposed WorldCom contract (as well as the DAL Agreement) sets forth adequate provisions concerning DA and operator services. Accordingly, Verizon VA complies with its obligation to provide access to its DA database in accordance with the requirements of § 251(b)(3). For all these reasons, WorldCom's position has absolutely no merit. The Commission should require WorldCom to adhere to the terms of the Settlement Agreement and the existing DAL Agreement and should exclude any consideration of access to directory assistance in this arbitration.

C. CONTRACT PROPOSALS

Since the DA listings database is not a UNE, any language in the Parties' ultimate interconnection agreement should not be part of a UNE Attachment. Accordingly, the language proposed by Verizon VA in its Additional Services Attachment is appropriate.

1. WorldCom

WorldCom's proposed contract in Attachment VIII, § 6.1.7.1 states "Verizon will provide to MCIm, and MCIm will pay Verizon for, directory assistance data at the rate and under

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[115] *See Provision of Directory Listing Information under the Telecommunications Act of 1934, As Amended*, CC Docket No. 99-273, First Report and Order, FCC 01-27, at ¶ 9 (rel. January 23, 2001)("Accordingly, in the *UNE Remand Order*, we acknowledged that issues remained concerning the quality and accessibility of alternative directory assistance sources (such as compiled directory assistance databases), and reiterated that requesting carriers had to have the ability, under Section 251(b)(3), to obtain nondiscriminatory access to any other LEC's directory assistance databases.").

[116] *See id.* at ¶ 33.

the terms and conditions set forth in the Directory Assistance License Agreement executed by the Parties on November 19, 1998, and as may be subsequently amended by the Parties." Because the Parties are already subject to the DAL and Settlement Agreement, WorldCom's proposed language would only add unnecessary ambiguity--a second contract with a different termination date--to the framework in which Verizon VA provides WorldCom with its DA database listings. There is simply no reason to refer specifically to the DAL entered into on November 19, 1998. As stated by Verizon VA's UNE Panel, "WorldCom asks the Commission to nullify Verizon VA's right to terminate or modify in the future the current DAL Agreement. Put differently, WorldCom asks this Commission to order Verizon VA to comply with the terms of the DAL Agreement well beyond the potential date of its termination." Verizon VA Ex. 24 at 13-14. Moreover, WorldCom's proposed language would establish precedent that inappropriately presumes Verizon VA will disregard its statutory obligation to negotiate in good faith, and WorldCom also would like to establish complete control over the DAL by having the arrangements continue indefinitely until WorldCom desires a change in those arrangements. Inclusion of such a provision for access to Verizon VA's DA database is completely uncalled for and would require the Commission to treat access to Verizon VA's DA database differently from other services or products provided under an interconnection agreement that expire at a set date. *See id.* at 14.

2. Verizon VA

Given the existence of the Parties' DAL and Settlement Agreement, § 3.1 of the Additional Services Attachment appropriately and adequately addresses Verizon VA's provision of access to WorldCom to Verizon VA's DA database and states: "Either Party may request that the other Party provide the requesting Party with nondiscriminatory access to the other Party's ...

directory assistance listings database. If either Party makes such a request, the Parties shall enter into a mutually acceptable written agreement for such access." Verizon VA complies with that provision as WorldCom has nondiscriminatory access to DA through the DAL.

<u>Issue IV-25</u> Calling Name Database ("CNAM")

WorldCom: Should the Interconnection Agreement include detailed provisions regarding the Calling Name (CNAM) Database which Verizon must make available as an unbundled network element?

A. OVERVIEW

The Parties addressed only the issue of whether Verizon VA should be required to provide WorldCom with its entire CNAM database in a bulk, downloadable format. Verizon VA should not. Instead, consistent with the Commission's Rule 319(e)(2)(A), Verizon VA should continue to provide CNAM on a per-query-access basis as it does for itself and all CLECs as well as independent telephone companies and LECs operating outside of Verizon VA's service areas.

B. DISCUSSION

1. Verizon VA is legally obligated only to provide per-query-access at the Signal Transferring Point "STP".

Applicable law requires only that Verizon VA provide WorldCom with per-query-access to its CNAM database. The CNAM database provides access to a customer account name associated with the originating number of a call in response to a carrier query. This enables carriers to provide calling name services to their subscribers in connection with a Caller ID service. Although access to databases has been classified as a UNE under § 251(c)(3) of the Act, obtaining the databases themselves has not. Specifically, Rule 319(e)(2)(A) states:

> For purposes of switch ***query*** and database response through a signaling network, an incumbent LEC shall provide access to its call-related databases, including but not limited to, the Calling Name Database, 911 Database, E911 Database, Line Information Database, Toll Free Calling Database, Advanced Intelligent Network Databases, and downstream number portability databases ***by means of physical access at the signaling transfer point linked to the unbundled databases.***

(Emphasis added). Thus, the Commission has defined this particular UNE narrowly to include access to databases by query at the STP instead of requiring the ILEC to provide a complete download of the information contained in the database. The Commission has specifically considered the merits of per-query-access to call-related databases and recognized that

> [q]uery and response access to a call-related database is intended to require the incumbent LEC only to provide access to its call-related database as is necessary to permit a competing provider's switch ... to access the call-related database functions supported by that database. The incumbent LEC may mediate or restrict access to that necessary for the competing provider to provide such services as are supported by the database.[117]

This per-query-access arrangement works well and WorldCom has neither alleged nor shown that per-query-access to Verizon VA's CNAM database has been a problem to WorldCom or its customers.

Verizon VA makes access to CNAM available to CLECs via signaling protocol that is substantially similar to LIDB access. Therefore, access is provided in compliance with the Commission's *UNE Remand Order*, which requires that "incumbent LECs must provide access to their call-related databases for the purpose of ***switch query*** and database response through the SS7 Network" (emphasis added).[118] The Commission's support for this per-query-access to CNAM has been consistent since the passage of the Act:

> We require incumbent LECs to provide this access to their call-related databases by means of physical access at the STP linked to the unbundled database.... We, therefore, emphasize that access to call-related databases must be provided through interconnection at

[117] *Local Competition Order* at ¶ 484 n. 1127.

[118] *UNE Remand* Order at ¶ 400.

> the STP and that we do not require direct access to call-related databases.[119]

In addition, an outright CNAM data transfer would raise a variety of issues, including customer privacy and commitments made to other CLECs that would have to first be resolved.[120] The Commission also has expressed concern with privacy issues related to access of these call-related databases. In Rule 319(e)(2)(v), the Commission states: "An incumbent LEC shall provide a requesting telecommunications carrier with access to call-related databases in a manner that complies with section 222 of the Act." Section 222, of course, mandates the privacy of customer information.[121] As recognized by the California Commission, the "language the

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[119] *Local Competition Order* at ¶¶ 484-85. *See also UNE Remand Order* at ¶ 410 ("Thus, we require incumbent LECs to provide nondiscriminatory access to their call-related databases including, but not limited to, the CNAM Database...by means of physical access at the signaling transfer point linked to the unbundled databases.").

[120] Verizon VA's CNAM database stores the numbers and names for all Verizon VA subscribers' lines as wells as the numbers and names of subscribers of other local exchange carriers that elect to store this information in Verizon VA's CNAM databases. The CNAM database therefore also includes the identity of the local exchange carrier providing those line numbers. *See* Verizon VA Ex. 8 at 13. The CNAM database contains information beyond published subscriber list information, including unlisted names and nonpublished numbers. Nonpublished numbers include not only numbers that subscribers have specifically requested not be published but also numbers of multiple line customers. For example, a large business may subscribe to several hundred or even a thousand line numbers, but have only its main and selected numbers available to the public. Such nonpublished numbers are not available to directory publishers or directory assistance providers. The numbers are resident in the CNAM database, without distinction, because when a customer elects to initiate a call from an unlisted or unpublished number, the customer's originating number is received and delivered by the carrier completing the call. Therefore, CNAM enables a search by number to provide calling name information where available to the called party on a call-by-call basis. The carrier initiating a CNAM query is restricting such query to a number from which a call has actually been placed. It is, therefore, the calling customer that has elected to use and reveal the subscriber's number in a manner that justifies a CNAM query. In some instances, the caller may elect to block release of his name on a call-by-call basis. *See id.* at 14-16.

[121] § 222(a) of the Act memorializes this obligation that ILECs must "protect the confidentiality of proprietary information of, and relating to, other telecommunications carriers,

(continued...)

[Commission] placed in Subsection [(e)(2)(v)] above shows the [Commission's] intent that access to information be granted in a way that protects customers' privacy. In order to protect customers' privacy, a carrier should not be permitted to save any information obtained from routine database queries."[122]

The per-query-access (via SS7 signaling to the STP) to obtain CNAM responses that is provided to WorldCom and other CLECs is the same access used by Verizon VA. Verizon VA Ex. 8 at 16; Tr. 647. Verizon VA does not use the CNAM database for any purpose other than to complete Caller ID-type inquiries.[123] Further, Verizon VA mediates access to the CNAM not only through signaling but also by contractual terms that require a carrier to query CNAM solely to provide calling name services. Other carriers that elect to store their subscriber names and numbers in Verizon VA's CNAM database are also given these assurances. If the Commission were to force the CNAM database to be downloaded to all carriers, the potential for inadvertent or intended misuse of the confidential data will increase significantly. Carriers and customers have an expectation of privacy for their nonpublished customer names and numbers, as well as their account information, the total number of lines and the identity of the providing local exchange carrier. Indeed, in recognition of the proprietary nature of the data, Verizon VA's

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equipment manufacturers, and customers, including telecommunication carriers reselling telecommunications services provided by a telecommunications carrier."

[122] *Application by Pacific Bell Telephone Company (U 1001 C) for Arbitration of an Interconnection Agreement with MCImetro Access Transmission Services, L.L.C. (U 5253 C) Pursuant to Section 252(b) of the Telecommunications Act of 1996*, Final Arbitrator's Report, Application 01-01-010, at 62 (filed January 8, 2001).

[123] WorldCom alleged that Verizon VA uses the CNAM database for other purposes. *See* Tr. 647 ("***We really have no way of knowing*** how else [Verizon VA] use [sic] it, but one can only ***assume*** that since they own the entire database that they use it for other things.")(emphasis added). This allegation has no record support and is simply wrong.

contracts with other carriers that store their data in Verizon VA's CNAM. Verizon VA has committed to other LECs that choose to store their data in CNAM that their data will be provided only via per-query-access and only to provide caller identification services. It is unimaginable that those CLECs entered into these agreements with Verizon VA with the expectation or understanding that their proprietary information would, as a result of their contracts with Verizon VA, be turned over to other competing CLECs in bulk, downloadable form. Accordingly, any change in that obligation would have to be negotiated with these other carriers. Verizon VA Ex. 24 at 23-25.

WorldCom cites two decisions in support of its contention that the Commission should require Verizon VA to provide WorldCom with physical possession of its CNAM database. WorldCom Ex. 17, at 9 (citing *In the Matter of the Application of Ameritech Michigan for Approval of Cost Studies and Resolution of Disputed Issues Related to Certain UNE Offerings*, Case No. U-12540, at 21 (March 2001)("Michigan Decision") and *Petition of MCImetro Access Transmission Services, LLC and MCI WorldCom Communications, Inc. for Arbitration of Certain Terms and Conditions of Proposed Agreement with BellSouth Telecommunications, Inc. Concerning Interconnection and Resale Under the Telecommunications Act of 1996*, Order, Docket No. 11901-U (February 6, 2001)("Georgia Decision")). Neither case is relevant to the current arbitration. The Michigan Decision is devoid of analysis because the issue was never contested or briefed by Ameritech Michigan. The Georgia Decision is premised on specific findings that WorldCom was actually experiencing a delay by using BellSouth's process of accessing BellSouth's CNAM database. In this arbitration, WorldCom has not presented any study or analysis that quantifies any alleged "delay" to its customers from Verizon VA's per inquiry provision of the CNAM database, nor has it presented any evidence to suggest that the

delay, if any, associated with per-query-access into Verizon VA's CNAM database is discernable to customers.

In short, WorldCom seeks more than it is entitled to under the law. It is important to be precise that WorldCom is entitled to access the information in the CNAM database and that Verizon VA provides that access in a nondiscriminatory manner. This information is currently available to CLECs in the same manner as it is available to Verizon VA and that is the extent of Verizon VA's obligation. In fact, the majority of state commissions support the per-query-access Verizon VA advocates, a fact that WorldCom does not discuss. *See, e.g., Re MCImetro Access Transmission Services, LLC*, Docket No. P-474, Sub 10, Slip Copy, 2001 WL 468490 (N.C.U.C. April 3, 2001)("The [North Carolina Utilities Commission] agrees with BellSouth and the Public Staff that neither [the Act], nor the FCC Rules require BellSouth to provide an electronic download or a magnetic tape of the CNAM database to MCIm. Therefore, the [NCUC] concludes that BellSouth is not required to provide the CNAM database via electronic download, magnetic tape, or via similar convenient media as requested by MCIm.").[124]

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[124] *Re MCImetro Access Transmission Services LLC*, Docket No. 000649-TP, PSC-01-0824-FOF-TP, PUR Slip Copy, 2001 WL 460666 (Fla.P.S.C. March 30, 2001) ("However, when asked if any analysis had been performed to quantify any delay resulting from the scenario he described, [WorldCom's witness] responded, 'No, and I don't believe it is necessary.'"); *Re Southwestern Bell Telephone Company*, Case No. TO-99-227, 208 P.U.R. 4th 1, 2001 WL 490508 (Mo.P.S.C. March 15, 2001)(finding that "no CLEC presented evidence questioning [Southwestern Bell's] ability to satisfy this checklist item [Nondiscriminatory access to Databases and Associated Signaling Necessary for Call Routing and Completion]."); *Application by Pacific Bell Telephone Company (U 1001 C) for Arbitration of an Interconnection Agreement with MCImetro Access Transmission Services, L.L.C. (U 5253 C) Pursuant to Section 252(b) of the Telecommunications Act of 1996*, Final Arbitrator's Report, Application 01-01-010, at 63 (Ca. filed January 8, 2001)("MCIm's request for bulk access to the databases as a UNE ... is rejected.").

2. WorldCom's Attempt to Equate the CNAM and DA Databases Fails

WorldCom also makes the unfounded argument that Verizon VA should be required to provide WorldCom with its entire CNAM database based on the Commission's *Directory Listing Order*, which prohibits ILECs from restricting access to the DA database by restricting access to per-query-access only.[125] *See* WorldCom Ex. 17 at 5. The *Directory Listing Order*, however, does not address CNAM in any respect and certainly does not override or alter the Commission's explicit ruling that access to CNAM is to be provided via signaling query.[126] Importantly, directory listings materially differ in purpose and use from CNAM data. WorldCom acknowledged this difference. Tr. 635-36. Nevertheless, WorldCom argues that since the Commission prohibits ILECs from restricting DA access to per-query-access, the same obligation should exist for CNAM as "the CNAM database is also a call-related database." WorldCom Ex. 17 at 5-6. WorldCom's "analogy" between access to DA and access to CNAM is specious because of the use of each database. The Commission has determined that the DA database should be made available via bulk transfer to a requesting carrier. A CLEC operator may need to check multiple or alternative spellings or offer alternative listings, and the providing DA provider may wish to create its own search logic, sorting or classifications of listings to

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[125] *In the Matters of Implementation of the Telecommunications Act of 1996, Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Provision of Directory Listing Information*, Third Report and Order in CC Docket No. 96-115, Second Order on Reconsideration in CC Docket No. 96-98, and Notice of Proposed Rulemaking in CC Docket No. 99-273, ¶ 153 (rel. September 9, 1999)(*Directory Listing Order*).

[126] *UNE Remand Order* at ¶ 410.

enable efficient searches.[127] In short, an operator may need to manipulate the DA database to provide the information requested by the customer.

In contrast, the CNAM database empowers the Caller ID service and is used to retrieve rapidly and automatically the information associated with a specific number, without any human intervention, on a call-by-call basis, including many numbers not included in the DA database. With CNAM, there are no operator searches. Verizon VA Ex. 24 at 20-23. Accordingly, this significant difference between how these databases are used supports the Commission's distinction in how they are accessed by CLECs. Many states also have agreed with this distinction.[128]

One final concern is that unlike the DA database, Verizon VA does not have the technological means and processes to effect a CNAM download. Tr. 650. No mechanism for such a download is in place since Verizon VA does not use the database other than by per query. To fulfill WorldCom's request for an electronic download of the CNAM database, if that were required, Verizon VA would need to develop new computer programs, address the issue of how to update continuously the downloaded database, and perform whatever other work is necessary

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[127] *See Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers, Area Code Relief Plan for Dallas and Houston Ordered by the Public Utilities Commission of Texas, and Administration of the North American Numbering Plan*, Second Report and Order, and Memorandum Opinion and Order, CC Docket No. 96-98, 11 FCC Rcd 19392, at ¶¶ 141-43 (1996).

[128] *See, e.g.*, *Re Metro Access Transmission Services LLC*, Docket No. 000649-TP, PSC-01-0824-FOF-TP, PUR Slip Copy, 2001 WL 460666 (Fla. P.S.C. March 30, 2001)("[WorldCom] offered no evidence or testimony to support [its] claim that mere access to the CNAM database is insufficient to allow WorldCom to achieve the same service efficiencies as BellSouth" and "WorldCom has not demonstrated that it would be impaired if it did not have physical custody of BellSouth's CNAM database"); *see also supra* previous notes regarding CNAM access.

to make the data available in "real time" to WorldCom. Verizon VA Ex. 24 at 25. It is difficult to justify expenditures of unknown amounts to create this ability to download the CNAM database when the existing CNAM per-query-access system works well, the CLECs obtain access to CNAM in the same way as does Verizon VA, and no customer issues have been raised. In essence, there is no reason or lawful basis for the Commission to reverse its existing rules that support per-query-access to CNAM and compel Verizon VA to devote otherwise limited resources to provide WorldCom with a CNAM database "dump" that is neither required nor necessary.

C. CONTRACT PROPOSALS

1. WorldCom

Attachment III, § 13.6 to WorldCom's proposed contract presumes the Commission will reverse and require a full CNAM database "dump." To that end, WorldCom requests unique terms requiring specialized processes for itself. WorldCom would require in § 13.6.3 that "[u]pon MCIm's request, Verizon shall provide via electronic data transfer an initial load of subscriber records contained in its CNAM Database. The NPAs included must represent the entire Verizon operating territory in the State. The initial load shall reflect all data that is current as of one business day prior to the provision date" and, under § 13.6.4 that "[o]n a daily basis, Verizon shall provide updates (end user and mass) to the CNAM Database information via electronic data transfer. Updates must be current as of one business day prior to the date provided to MCIm." WorldCom then offers language describing standards on certain data processing requests in § 13.6.7. Proposed §§ 13.6.7.1-13.6.7.3 state that the Parties will "[i]dentify the type of tape to be used in sending the test and initial load data, *e.g.*, reel or cartridge tape," that "Verizon shall, due to the size of an initial load, provide the records on

magnetic tape and the daily update activity via electronic data transfer," and that "Daily update information must be provided to MCIm on the same day as the change occurred through the electronic data transfer medium, NDM." Verizon VA does not provide access to its CNAM in the manner described by WorldCom and does not have available the computer programs or processes to comply with these WorldCom demands. WorldCom's proposed provisions related to a CNAM database "dump" should be rejected.

2. Verizon VA

Verizon VA should not be required to provide WorldCom with its CNAM in a bulk, downloadable format. Verizon's proposed WorldCom contract, UNE Attachment, § 11.1, provides for WorldCom's access to Verizon's calling related databases, stating "In accordance with, but only to the extent required by, Applicable Law, Verizon shall provide **CLEC with access to databases and associated signaling necessary for call routing and completion by providing SS7 Common Channel Signaling ("CCS") Interconnection, and Interconnection and access to toll free service access code (*e.g.*, 800/888/877 databases, LIDB, and any other necessary databases." Verizon VA will make available the CNAM database to WorldCom on a per-query-access at TELRIC rates. To confirm access specifically to the CNAM database, Verizon will add the following provision to its proposed interconnection agreement:

> Calling Name Database (CNAM)
>
> Verizon shall permit **CLEC to transmit a query to Verizon's CNAM database for the purpose of obtaining the name associated with a line number for delivery to **CLEC's local exchange customers. To the extent **CLEC provides local switching utilizing its own switch, **CLEC may request that Verizon provide CNAM database storage and validation services pursuant to Tariff arrangements or a separate agreement.

Issue IV-80 Directory Assistance

Issue IV-81 Operator Services

WorldCom: Issue IV-80: Should the Interconnection Agreement contain provisions regarding Directory Assistance Service?

Issue IV-81: Should the Interconnection Agreement contain provisions regarding Operator Services ("OS")?

A. OVERVIEW

Verizon VA provides customized routing in Virginia through its Advanced Intelligent Network (AIN). Therefore, OS/DA is not a UNE under the Commission's Rule 319(f), and the Parties' interconnection agreement should not contain terms and conditions governing access to OS/DA as a UNE.

B. DISCUSSION

The Commission has held that ILECs need not provide access to OS/DA as a UNE when the ILEC provides customized routing of OS/DA traffic to the requesting CLEC as part of the unbundled switching element and continues to provide non-discriminatory access to its OS/DA.[129] The Commission stated that this non-UNE arrangement "best comports with the realities of a growing OS/DA marketplace, embraces a deregulatory approach where justified, and does not unduly confine the entry strategies of competitive carriers."[130]

In Virginia, Verizon VA offers customized routing of OS/DA calls. Verizon VA has special AIN capabilities that enable routing via Feature Group D (FGD) trunks, as requested by WorldCom. This is the most up-to-date technology available for customized routing. Verizon

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[129] *UNE Remand Order* at ¶¶ 441-42, 446.

[130] *Id.* at ¶ 442.

VA Ex. 8 at 13; Verizon VA Ex. 24 at 32. Verizon VA has proven that "feature Group D signaling with AIN technology ... does work." Tr. 654. Verizon VA is willing to demonstrate to WorldCom that this enhanced customized routing service is available in Virginia and will route OS/DA calls via standard FGD signaling protocol. In fact, Verizon VA has corresponded with WorldCom, offering to engage in such testing. Tr. 615-16. WorldCom's refusal to acknowledge the effectiveness of Verizon VA's customized routing is unfounded. Since Verizon VA provides customized routing, it is not obligated to provide WorldCom with anything more than nondiscriminatory access to its OS/DA consistent with § 251(b)(3). This is exactly what Verizon VA's proposed interconnection agreement states that Verizon VA will do, and this should resolve this issue.

WorldCom's request that Verizon VA provide back-up language in case the customized routing fails is unnecessary and not required under the Act. WorldCom will not be harmed in any way by accepting the same terms under which other CLECs have obtained access to directory assistance and operator services. In fact, WorldCom is not now using directory assistance or operator services from Verizon VA (Tr. 653) presumably because, as the Commission has recognized, "MCI WorldCom ... ha[s] already established national operator services via toll-free numbers."[131] Consequently, in the event Verizon VA's AIN technology somehow does not satisfy WorldCom, WorldCom is not in any way harmed since it is capable of, and has been, providing this service to itself. This shows, as the Commission found, "a growing OS/DA marketplace,"[132] and obviously WorldCom's business is not "impaired" by the provision of OS/DA as a non-UNE service.

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[131] *Id.* at ¶ 448.

[132] *Id.* at ¶ 442.

C. CONTRACT PROPOSALS

1. WorldCom

WorldCom has proposed provisions for its interconnection agreement with Verizon VA that describe how customized routing must be provided for OS/DA in Verizon service territories other than Virginia where AIN architecture has not yet been deployed. Aside from being completely unnecessary, much of this language is outdated and cumbersome in its detail. Inclusion of such language could hinder the progress of collaboratives and industry changes in OS/DA access.

Because AIN architecture has been deployed throughout Verizon VA's service territory, there is no basis to include WorldCom's expansive and irrelevant contractual language in the interconnection agreement. In fact, the only apparent basis for WorldCom's request for this language is its hope to export it to another jurisdiction where AIN architecture has not been deployed.

Verizon VA must have a common and non-discriminatory method by which to offer OS/DA. WorldCom seeks to compel Verizon VA to adopt discriminatory terms in its favor contrary to § 251(b)(3), which requires Verizon VA to provide directory assistance and operator services on a nondiscriminatory basis to all competing providers of exchange or toll service. WorldCom cannot demand unique terms requiring specialized and different call handling processes to meet its own preferred specifications.

2. Verizon VA

Section 3 of the Additional Services Attachment to Verizon's proposed interconnection agreement addresses Verizon VA's provision of OS/DA satisfactorily and is in full compliance with current law:[133]

> Directory Assistance (DA) and Operator Services
>
> 3.1 Either Party may request that the other Party provide the requesting Party with nondiscriminatory access to the other Party's directory assistance services (DA), IntraLATA operator call completion services (0S), and/or directory assistance listings database. If either Party makes such a request, the Parties shall enter into a mutually acceptable written agreement for such access.
>
> 3.2 **CLEC shall arrange, at its own expense, the trunking and other facilities required to transport traffic to and from the designated DA and OS switch locations.

[133] *See also* Verizon's responses to Issues IV-8 and IV-24.